
ARRANGEMENT OF SECTIONS

1. Short title and commencement
2. Interpretation
3. Application of Act

PART II**ADMINISTRATION**

4. Comptroller of Customs
5. Customs officers, proper officers and authorized persons
6. Delegation
7. Identification
8. Deeming of place of acts
9. Confidentiality
10. Powers of police officers
11. Duty of Police to render assistance
12. Hours of general attendance
13. Powers to impose Customs charges

PART III**CUSTOMS CONTROLLED AREAS**

14. Appointment of customs port and wharves
15. Appointment of customs airport
16. Examination stations
17. Transit sheds
18. Accounting for goods
19. Production of goods

PART IV**ARRIVAL AND DEPARTURE**

20. Prior notification of arrival
21. Requirement to answer questions
22. Request to stop a conveyance
23. Conveyance to arrive at notified place only
24. Conveyance arriving at place other than notified place
25. Control of pleasure craft
26. Small craft

27. Report of arrival of conveyance
28. Vessel or aircraft commissioned by State
29. Disembarkation
30. Baggage to be presented
31. Persons departing from Grenada to depart from customs controlled area
32. Embarkation
33. Outgoing baggage to be presented
34. Certificate of clearance
35. Clearance of conveyances
36. Production of certificate of clearance
37. Power to refuse or revoke clearance
38. Departure to be from customs controlled areas only

PART V

IMPORTATION

39. Imported goods subject to customs control
40. Entry of goods on importation
41. Entry by bill of sight
42. Provisional assessment
43. Removal of goods from customs controlled area
44. Removal of uncleared goods to customs warehouse
45. Control of movement of uncleared goods
46. Control of movement of goods
47. Treatment of improperly imported goods
48. Importation by post
49. Time of importation
50. Appointment of entities to collect duties and taxes

PART VI

EXPORTATION AND LOADING

51. Goods for export subject to customs control
52. Entry of goods for exportation
53. Comptroller may waive conditions of shipment
54. Entry outwards of conveyances
55. Security for exportation of goods
56. Exportation by post
57. Time of exportation
58. Offences in relation to exportation

PART VII

COASTING TRADE

- 59. Definition of coasting Trade
- 60. Limits on coasting trade
- 61. Provisions relating to vessels and aircraft from places outside Grenada
- 62. Clearance of coasting vessels and aircraft
- 63. Comptroller may vary procedure
- 64. Coastwise passengers
- 65. Cargo book
- 66. Examination of goods in coasting vessels
- 67. Offences in relation to carriage of goods coastwise

PART VIII

WAREHOUSING

- 68. Approval of warehouses
- 69. Maintenance of goods
- 70. Regulations
- 71. Goods not to be warehoused
- 72. Re-entry
- 73. Removal from warehouse
- 74. Loss or deterioration of goods
- 75. Payment of duties

PART IX

DUTIES, REFUNDS AND DRAWBACK

- 76. Power to impose duties
- 77. Rate of duty
- 78. Valuation
- 79. Assessment and re-assessment of duty
- 80. Payment of duty on imports
- 81. Payment of duty on exports
- 82. Date for payment of duties
- 83. Payment of additional duties
- 84. Refund

- 85. Goods temporarily imported
- 86. Claims for drawback
- 87. Drawback of duty on certain goods
- 88. Extent of drawback
- 89. Drawback on goods destroyed or damaged after shipment
- 90. Offences in relation to drawback

PART X

RECORDKEEPING

- 91. Keeping of records
- 92. Regulations
- 93. Access to records
- 94. Retention of records
- 95. Recordkeeping for exempted articles

PART XI

PROHIBITED AND RESTRICTED GOODS

- 96. Prohibited and restricted imports
- 97. Prohibited and restricted exports
- 98. Production of licence or permit for restricted goods
- 99. Other Orders
- 100. Goods imported in transit, transshipment or as stores
- 101. Penalty for prohibited goods

PART XII

COMMUNITY ORIGIN GOODS

- 102. Definitions
- 103. Import duty on goods of Community origin
- 104. Export duty on goods of Community origin
- 105. Drawback
- 106. Quantitative restrictions
- 107. Determination of Community origin
- 108. Common External Tariff
- 109. Cooperation in customs services

PART XIII**POWERS**

110. Patrol and surveillance
111. Power to land or moor
112. Power to board conveyance
113. Power to station officer on vessel
114. Right of access
115. Searching of conveyance
116. Powers to search premises
117. Power to search vehicles
118. Securing goods
119. Procedures to search persons
120. Application of sections 120, 121 and 122
121. Preliminary search of persons by use of aids
122. Searching of persons if reasonable cause to suspect items concealed
123. Searching of persons for dangerous items
124. Seizure of items found
125. Questioning of persons in a customs controlled area
126. Power to carry and use firearms
127. Firing on vessel
128. Detention of conveyance
129. Power to examine and take account of goods
130. Examination of goods subject to customs control
131. Writ of assistance
132. Examination of goods no longer subject to customs control
133. Verification of entries
134. Power to take samples
135. Power of arrest
136. Escape from officer
137. Power to pay rewards
138. Power to require attendance
139. Power to require information and the production of evidence
140. Power of Comptroller in special circumstances
141. Power to accept compensation for offences
142. Power to require security
143. Power to require provision of facilities
144. Audit or examination of records
145. Requirement to produce documents

- 146. Power to require copies of documents
- 147. Further powers in relation to documents
- 148. Copying of documents obtained during search
- 149. Retention of documents and goods obtained during search
- 150. Detention of goods suspected to be illegally obtained
- 151. Return of goods detained under section 148
- 152. Extension of six month period
- 153. Custody of certain articles detained under section 148
- 154. Search warrants
- 155. Entry and search under warrant
- 156. Execution of search warrant
- 157. Emergency warrants
- 158. Use of aids by customs officer
- 159. Condition applying to entry of buildings
- 160. Detention of dangerous goods
- 161. Protection of persons acting under authority of the Act
- 162. Comptroller may prescribe forms
- 163. Errors in documentation
- 164. Witnessing of signature
- 165. Documents in foreign language

PART XIV

OFFENCES

- 166. Impersonation of officer
- 167. Offences against officers
- 168. Bribery and collusion
- 169. Carrying away officers
- 170. Interfering with customs vessels, aircraft, etc.
- 171. Signalling to smugglers
- 172. Adapting conveyance for smuggling
- 173. Communicating with arriving conveyances
- 174. Offering smuggled goods for sale
- 175. Special penalty where offender is armed or disguised
- 176. False declarations
- 177. Counterfeiting documents
- 178. False scales

- 179. Fraudulent evasion of duty
- 180. Vessels and vehicles
- 181. Removing locks, seals or marks
- 182. Penalty for assembling to evade customs enactment
- 183. Intermeddling with goods found floating, etc.
- 184. Penalty in cases of forfeiture
- 185. Offences in relation to warehouses
- 186. General penalty and limit of penalty

PART XV

FORFEITURE AND SALE OF GOODS

- 187. Detention, seizure and condemnation of goods
- 188. Forfeiture of conveyances used in connection with goods liable to forfeiture
- 189. Special provisions as to forfeiture of large vessels
- 190. Sale of certain seized goods
- 191. Sale of goods condemned as forfeited
- 192. Sale of goods not condemned
- 193. Notice of seizure
- 194. Delivery of goods seized on deposit of value
- 195. Protection of officers seizing or detaining goods
- 196. Application for order disallowing seizure
- 197. Court may disallow seizure
- 198. Application for order disallowing seizure where notice not received
- 199. Condemnation if no appeal against seizure
- 200. Condemnation if application discontinued
- 201. Condemnation of seized goods on conviction
- 202. Disposal of forfeited goods
- 203. Application of forfeiture provisions

PART XVI

CUSTOMS PROCEEDINGS

- 204. Appeal to Comptroller

PART XVII

CUSTOMS APPEAL COMMISSION

- 205. Customs Appeal Commission
- 206. Appeal to Customs Appeal Commission
- 207. Procedure
- 208. Nature of Appeal
- 209. Commission may extend time for appeal
- 210. Hearing
- 211. Commission may decide appeal without oral hearing if both parties consent
- 212. Commission's powers
- 213. Evidence
- 214. Powers of investigation
- 215. Power to summon witnesses
- 216. Service of summons by the Commission
- 217. Protection of persons appearing
- 218. Grounds of appeal and burden of proof
- 219. Sittings of Commission
- 220. Commission may dismiss frivolous or vexatious appeal
- 221. Decision of Commission

PART XVIII

COURT PROCEEDINGS

- 222. Appeals to High Court
- 223. Stating case for High Court
- 224. Prosecution for customs offences
- 225. Appeal to Court of Appeal
- 226. Place of offence
- 227. Place of trial
- 228. Time limit on proceedings
- 229. Limitation as to pleading
- 230. Officer may prosecute
- 231. Alternate prison sentence
- 232. Imprisonment for second offence
- 233. Incidental provisions as to legal proceedings for offences
- 234. Institution of civil proceedings
- 235. Service of process
- 236. Costs
- 237. Payment of duty after appeal

PART XIX

PROOF IN PROCEEDINGS

- 238. Burden of proof
- 239. Onus of proof on defendant in certain cases
- 240. Averment in proceedings
- 241. Evidence of officers
- 242. Proof of certain documents
- 243. Presumption of authenticity of documents
- 244. Valuation of goods for penalty
- 245. Certificate of condemnation

PART XX

AGENTS

- 246. Authority to be produced
- 247. Person other than individuals
- 248. Regulations as to Customs brokers
- 249. Customs brokers
- 250. *Gazetting* of Customs brokers
- 251. Penalties
- 252. Ship agents

PART XXI

MISCELLANEOUS

- 253. Joint and several liability
- 254. Officials of unincorporated bodies
- 255. Executors and administrators
- 256. Trustees in bankruptcy
- 257. Receivers
- 258. Receipts
- 259. Duties and Drawback to be proportionate to quantity or value
- 260. Mode of calculating weights and measures
- 261. Sales under customs enactment

- 262. Actions against officer
- 263. Goods in transit
- 264. General power to make regulations
- 265. Availability of information
- 266. Existing ports, warehouse, etc., to continue
- 267. Repeals and savings

SCHEDULES

SCHEDULE I — GOODS PROHIBITED OR RESTRICTED FROM WAREHOUSING ON IMPORTATION

SCHEDULE II — VALUATION OF GOODS

SCHEDULE III — GOODS PROHIBITED AND RESTRICTED FROM IMPORT AND EXPORT

SCHEDULE IV — FORFEITURE RULES

SCHEDULE V — CUSTOMS APPEAL COMMISSION



GRENADA

ACT NO. 9 OF 2015

I assent,



30th January, 2015.

CÉCILE E. F. LA GRENADE
Governor-General.

AN ACT to provide for the operations of Customs and to provide for related and consequential matters.

[By Notice].

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Grenada, and by the authority of the same as follows—

PART I

PRELIMINARY

1. This Act may be cited as the

CUSTOMS ACT, 2015

Short title and
commence-
ment.

and shall come into force on a date to be fixed by the Minister by Notice published in the *Gazette*.

Interpretation.

2. In this Act, unless the context otherwise requires—

“agent” means, a person who is authorized, in writing, by a person required to perform any act under this Act, to act as his agent for the purpose of conducting customs business under this Act;

“aircraft” means, any machine that is capable of deriving support in the atmosphere from the reactions of the air, other than a machine designed to derive support in the atmosphere from reactions against the earth’s surface of air expelled from the machine, and includes a rocket or such machine to travel into outer space;

“airport” means an aerodrome that has been certificated as an airport, pursuant to the Civil Aviation Regulations made pursuant to the Civil Aviation Act Cap. 54A;

“approved wharf” has the meaning assigned to it in section 14;

“assessment of duties and taxes” means the determination of the amount of duties and taxes due;

“assigned matter” means a matter in relation to which the Comptroller is required in pursuance of a written law, to perform any duty;

“audit” means, the measures used by the Comptroller, to satisfy the requirements of law concerning the accuracy and authenticity of declarations;

“boarding station” means any place appointed as such under section 14;

“burden” means the net registered tonnage, or tonnage calculated in the manner prescribed by law, for ascertaining net registered tonnage;

“cargo” means goods, other than mail, stores, crew member’s effects and passenger’s accompanied baggage, carried on board a conveyance for consideration;

“clearance” means, the completion of customs formalities required for conveyances, or for goods to enter home use, to be exported, or to be placed under another customs procedure applicable to imported or exported goods;

“coasting aircraft” and “coasting vessel” have the meaning assigned to them in section 59;

“commander” in relation to an aircraft, includes a person having or taking the charge or command of that aircraft;

“Common External Tariff” means the Common External Tariff Statutory Rules and Orders No. 13 of 2014;

“Comptroller” means the Comptroller of Customs;

“container” means

- (a) an article of transport equipment—
 - (i) of a permanent character and strong enough to be suitable for repeated use;

- (ii) specially designed to facilitate the carriage of goods by one or more modes of transport;
 - (iii) without intermediate reloading;
 - (iv) fitted with devices permitting its ready handling, particularly its transfer from one mode of transport to another; and
 - (v) so designed as to be easy to fill and empty;
- (b) includes the normal accessories and equipment of the container, when imported with the container; and
 - (c) excludes vehicles and conventional packing;

“conveyance” includes a vehicle, aircraft, vessel or other machine used or capable of being used, for the carriage or transportation of persons or goods by land, air or water or over or above water;

“COTED” means the Council for Trade and Economic Development, an organ of the Community so named in paragraph 2 (b) of Article 10 of the Revised Treaty of Chaguaramas;

“crew” means a person employed on board any vessel or aircraft during a voyage or flight, whether or not such a person is on any crew list;

“Customs” means the Customs and Excise Division of the Ministry of Finance;

“Customs Computerised System” means the Customs Computerised System designed to deal with an assigned matter;

“customs airport” means a place appointed as such under section 15;

“Customs Appeal Commission” means the body established as the Customs Appeal Commission under section 205;

“customs controlled area” means a place appointed or approved to be a customs controlled area by the Comptroller with the approval of the Minister where necessary, by notice in the *Gazette*;

“customs declaration” means a statement, verbal, written or electronic made by any person indicating the customs procedure to be applied to goods being imported or exported and providing the information required by the Comptroller;

“customs direction” includes—

- (a) a request, command, instruction or an order given by a proper officer to a person, to perform or refrain from performing an act, or to submit to a procedure for the purposes of this Act;
- (b) any notice, poster, or sign publicly displayed in a customs controlled area; or

- (c) a direction contained in a form prescribed under this act;

“customs duty” means duty imposed on imports or exports and does not include Value Added Tax;

“customs enactment” includes—

- (a) this Act and any subsidiary legislation made under this Act; and
- (b) any other enactment which relates to an assigned matter;

“Customs Officer” means the Comptroller and any person appointed by the Public Service Commission as a Customs Officer, and any person acting in the aid of a Customs Officer;

“customs place” means for the purpose of this Act, a port or airport or any other place appointed as such by the Minister;

“customs port” means a place appointed as such under section 14;

“customs value” means the value of goods as determined in accordance with Schedule II;

“declaration” means a statement, in verbal, written or electronic form, made by an importer or exporter, indicating the customs procedure to be applied to the goods being imported or exported, and providing the information required by the Comptroller;

“document” means—

- (a) any paper or other material on which there is writing;
- (b) any paper or other material on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them;
- (c) any paper or other material on which photographic image or any other image is recorded;
- (d) any article or material from which sounds, images or writing is capable of being produced, with or without the aid of a computer or of some other device; or
- (e) any electronic document;

“draw-back” means a refund on exportation of all or part of any customs duty paid on importation;

“driver” means the person in charge or command of a vehicle;

“dutiable goods” means goods of a class or description subject to customs duty, whether or not—

- (a) such goods are in fact chargeable with that duty; and
- (b) that duty has been paid;

“duty” in relation to charges on goods includes any tax or surtax imposed on imports and exports, as well as other charges, penalties and interest;

“entered” means that goods have been properly accounted for to the satisfaction of Customs;

“entry” in relation to goods means the submission, in electronic or other form, of documentation required under this Act for goods to be entered under a particular customs procedure;

“entry by bill of sight” means an entry made in accordance with section 41;

“examination station” means any place approved as such under section 16;

“export” means to—

- (a) take goods, or cause goods to be taken or attempt to be taken outside the land borders of Grenada or the territorial waters of Grenada; or
- (b) load, or cause goods to be loaded on a vessel or an aircraft for use as stores;

“exporter” in relation to goods means—

- (a) the owner, or other person beneficially interested in the goods that are exported or supplied for use as stores; or
- (b) an agent acting on behalf of the person referred to in paragraph (a);

“goods” includes any tangible property, including personal property, livestock, conveyances, stores, baggage, documents (including in electronic form), currency and mail and packets imported by post, and includes prohibited or restricted goods;

“home use” means that goods have completed the required customs clearance formalities, are no longer subject to customs control, and are therefore available for free circulation in Grenada;

“inaccurate entry” means an entry not made in accordance with section 40;

“import” means to bring goods or cause goods to be brought in or attempt to bring in goods within the territorial waters of Grenada;

“importer” in relation to goods means—

- (a) the person, including the owner or consignee, or other person beneficially interested in the goods; or
- (b) an agent acting on behalf of the person referred to in paragraph (a);

“land” in relation to arrival of aircraft, includes alighting on water;

“master” in relation to a vessel, includes any person having or taking charge or command of the vessel;

“Minister” means the Minister responsible for Finance;

“occupier” means any person who signs as principal, any bond in respect of any building or place used as warehouse for the deposit of goods;

“owner” in relation to—

- (a) a conveyance includes the master, commander or driver; and
- (b) goods includes any person or agent of that person who has a beneficial interest in those goods;

“passenger” means a person other than a crew member travelling on, arriving from, or departing on a conveyance;

“passenger’s accompanied baggage” means property, including currency, carried for a passenger on a conveyance, whether or not in the passenger’s personal possession;

“perfect entry” means an entry made in accordance with section 40;

“Police Force” means the Royal Grenada Police Force established by the Police Act, and includes any other Police Force established by or under a Law enacted by Parliament, to succeed to the functions of the Royal Grenada Police Force;

“Police Officer” means any member of the Royal Grenada Police Force;

“prohibited or restricted goods” means, goods of a class or description of which the importation, exportation or carriage coastwise is prohibited or restricted under, or by virtue of any enactment;

“proper officer” means a person authorized by the Comptroller for the discharge of any duty related to an assigned matter;

“proprietor” in relation to goods, includes any owner, importer, exporter, shipper or other person possessed of or beneficially interested in those goods;

“Queen’s Warehouse” means, any warehouse or place whatever for the time being occupied or used by the Comptroller, for the deposit of goods approved by the Comptroller under section 68;

“spirits” means spirits of any description, and includes all liquors mixed with spirits, and all mixtures, compounds or preparations made with spirits, but does not include perfumed, methylated and medicated spirits;

“stores” means goods for use in a vessel or aircraft, and includes fuel and spare parts and other articles or equipment whether or not for immediate fitting;

“territorial waters” has the same meaning assigned to the term “territorial sea” in section 2 of the Territorial Sea and Maritime Boundaries Act Cap. 318;

“transshipment” means, the customs procedure under which goods are transferred under customs control, from the importing means of transport to the exporting means of transport within one customs area, which is the area of both importation and exportation;

“transit” includes—

- (a) the inland movement of goods under customs control; and
- (b) the customs procedure under which imported goods are transferred under customs control, from the port of entry to another port for exportation;

“transit shed” means a building or place approved as such, by the Comptroller, under section 17, for the temporary deposit of goods that are imported or are to be exported;

“uncustomed goods” includes any goods—

- (a) liable to duty on which the full duties due have not been paid or secured; and
- (b) whether liable to duty or not, that are imported or exported or in any way dealt with contrary to customs enactment;

“vehicle” means any method of carriage or conveyance for use on land, whether it is capable of being used on or over water, and includes any cart and wagon and any trailer attached to any such carriage or conveyance;

“vessel” includes any ship, hovercraft or boat;

“warehoused” means deposited in a warehouse in accordance with Part VIII.

3.— (1) This Act, and every other Customs enactment Application of Act. applies in relation to—

- (a) the importation and exportation of goods;
- (b) the arrival of persons from outside the territorial waters or land borders of Grenada;
- (c) the departure of persons to a destination outside of the territorial waters of Grenada; and
- (d) the control of coasting trade.

(2) The circumstances in which, and the conditions under which the powers conferred by Part XIII may be exercised in relation to—

- (a) a member of the Police Force;
- (b) access to any security area for the purpose of the defence and security of the State; and
- (c) any conveyance under the control of the Police Force,

shall be prescribed by regulations made by the Minister.

(3) Subject to subsection (5)–

- (a) sections 31 to 38 shall not apply to any member of the Police Force, or any conveyance under the control of the Police Force, during such time as that person or conveyance is required to respond to an emergency;
- (b) sections 23 to 24 and 26 to 30 shall not apply to any member of the Police Force, or any conveyance under the control of the Police Force, during such time as that person or conveyance is involved in an emergency as described in sub-section 7(a) or (d).

(4) Where a conveyance under the control of the Police Force when involved in, or is required to respond to, an emergency, departs from or returns to Grenada, the Police Force shall, within a period of 24 hours or such longer period as the Comptroller may allow–

- (a) notify the Comptroller that the conveyance has departed from or arrived in Grenada; and
- (b) provide to the Comptroller, such details relating to goods and persons on the conveyance as the Comptroller specifies.

(5) The power of the Comptroller under subsection (4), to determine a time or to specify details required, may be exercised generally or in respect of any particular case.

(6) For the purposes of this section, “emergency” means—

- (a) a national emergency within the meaning of the Emergency Powers Act, or Act under which such emergency is declared;
- (b) a search and rescue event at any place outside Grenada, involving a serious and imminent threat to the safety of persons or to a conveyance;
- (c) a state of war or other similar emergency in a place outside Grenada; or
- (d) such other circumstances as are determined by the Chief of Police to be an emergency.

(7) Nothing in this Act shall be interpreted as limiting the immunities of—

- (a) any foreign warship, or other vessel of the Government of any other country operated for non-commercial purposes;
- (b) any foreign military aircraft; or
- (c) members of the crew of any vessel or aircraft to which paragraph (a) or (b) applies.

PART II

ADMINISTRATION

Comptroller of
Customs.

4.—(1) The Comptroller shall be responsible for—

- (a) the general management and administration of this Act; and
- (b) any other matter concerning which a duty is conferred on the Comptroller, by or under any other enactment.

(2) The Comptroller may, in the exercise of his functions, execute any document or agreement required under this Act, or any other enactment to be entered into between the Comptroller and any other person.

Customs
officers, proper
officers and
authorised
persons.

5.—(1) The Comptroller may authorize a suitably qualified person, who is not a customs officer, to perform or exercise any function or power that may be performed or exercised by a customs officer under this Act.

(2) The authorization under subsection (1) shall be in writing, which includes any writing in electronic form, and shall specify—

- (a) the function or power that may be performed or exercised by the person authorised under subsection (1); and
- (b) the term of the authorization, which shall be for such period, not exceeding 3 years, as the Comptroller thinks fit.

(3) The Comptroller may renew any authorization given under this section for such further period, not exceeding 3 years, as the Comptroller thinks fit.

(4) A person who is authorised under this section, shall be deemed to be a customs officer for the purposes of this Act, and any other customs enactment for the duration of the term of the authorization.

(5) The Comptroller may revoke an authorization given under this section—

- (a) for incapacity, neglect of duty, or misconduct;
- (b) where the authorized person gives written notice to the Comptroller, that the authorized person wished the authorization to be revoked; or
- (c) in any other circumstance where, in the opinion of the Comptroller, the authorization is no longer necessary.

(6) Where a person ceases to be authorized under this section, that person shall surrender to the Comptroller, all articles and documents received by the person in relation to the authorization.

(7) Any act required or authorised by this Act or any other enactment to be performed by the Comptroller, may be performed by any customs officer authorized by the Comptroller to perform such acts, and that officer shall be deemed a proper officer.

(8) A person, not being a proper officer, authorized by the Comptroller to perform any act or duty to be performed by the proper officer under subsection (7), shall be deemed to be a proper officer for the purpose authorized.

(9) For the purposes of this section, the authorization by the Comptroller under subsection (7) may occur prior to or subsequent to the exercise of the functions or power.

Delegation.

6. The Comptroller may delegate, any power or duty imposed on him by this or any other Act, as may be appropriate, to any customs officer, but not his power of delegation.

Identification.

7.—(1) The Comptroller shall give to every customs officer an identity card or other means of identification.

(2) Whenever a customs officer exercises any power under this Act, the officer shall, on request, produce the identity card or other means of identification for inspection.

Deeming of
place of acts.

8. Where an act is required by this Act or any other enactment, to be performed in a particular place within a customs controlled area, it shall be deemed to be performed in such place if the place is authorized by the Comptroller for that purpose.

Confidentiality.

9.—(1) A person having an official duty under, or being employed in the administration of this Act, shall regard and deal with as secret and confidential, all documents and information acquired relating to his or her official duties within Customs.

(2) A person having an official duty under, or being employed in the administration of this Act shall not disclose any information relating to the valuation or assessment of customs duties in respect of goods.

(3) A person exercising powers under this Act or in relation to an assigned matter, shall not communicate to any unauthorised person, directly or indirectly, any information or document obtained—

- (a) in the exercise of any power under this Act; or
- (b) in relation to an assigned matter.

(4) Where a person exercising powers under this Act or in relation to an assigned matter who, having possession of or control over any information or document obtained as described in subsection (2)—

- (a) communicates such information or anything contained in such document to an unauthorised person; or
- (b) permits an unauthorised person to have access to the documents or information,

that person commits an offence, and is liable, on summary conviction, to a fine of twenty-five thousand dollars or to a term of imprisonment not exceeding two years, or to both such fine and imprisonment.

(5) Nothing in subsection (3) prevents the disclosure of any document or information, where that disclosure is authorized by the Comptroller in accordance with subsection (6).

(6) The Comptroller may disclose or authorise the disclosure of any document or information in accordance with any law, treaty, agreement or arrangement concluded by Grenada.

(7) The information which may be disclosed under subsection (6) includes, but is not limited to, information about—

- (a) the movement of a conveyance, including passenger and crew lists;
- (b) past travel movements, general history and *modus operandi* of specified persons;
- (c) currency and documents relating to other relevant financial transactions, including money laundering;
- (d) intelligence analysis, assessments and reports; and
- (e) the details about known or suspected involvement of persons in illicit activities.

(8) For the purposes of this section, an unauthorised person includes a person who is not authorised:—

- (a) by a person, business or firm to collect any information, or document or any transaction directly or indirectly on their behalf; or

- (b) by the Comptroller to receive any information or document.

10. For the purpose of carrying out the provisions of this Act or any other customs law, every customs officer has the same powers, authorities and privileges as are given by law, to members of the Police Force.

Powers of police officers.

11. It shall be the duty of every police officer to assist in the enforcement of this Act and any other customs enactment, in relation to an assigned matter.

Duty of Police to render assistance.

12. The Minister may make regulations setting the hours and places of customs services.

Hours of general attendance.

13. The Minister may, by Regulations, prescribe such charges which he considers necessary for the administration of Customs.

Power to impose Customs charges.

PART III

CUSTOMS CONTROLLED AREAS

14.—(1) The Minister may, by Order, published in the *Gazette* and subject to such conditions or restrictions as the Minister thinks fit, appoint any place as a “customs port”.

Appointment of customs port and wharves.

(2) The Comptroller may, in such manner as the Comptroller thinks fit, approve any place for—

- (a) the loading or unloading of any class or description of goods onto or from vessels;
or

- (b) the embarkation and disembarkation of passengers onto or from vessels,

and any place so approved shall be referred to as an “approved wharf”.

(3) The Comptroller may, for the purpose of the boarding of or disembarkation from vessels or vehicles by customs officers, appoint boarding stations within a port.

(4) A person in control of a customs port shall—

- (a) permit a proper officer, at any time, to enter upon and inspect the customs port and all buildings and goods in it; and
- (b) if required by the Comptroller—
 - (i) keep a record, in such form and manner and containing such particulars as the Comptroller may direct, of any vessel or vehicle arriving or departing from that customs port;
 - (ii) keep such record available and produce it on demand to any proper officer, together with all documents kept at the customs port, relating to the movement of that vessel or vehicle; and
 - (iii) permit a proper officer to make copies of, take extracts from or remove, for a reasonable period, any such record or document.

(5) A person who contravenes or fails to comply with any provision of this section commits an offence, and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars.

15.—(1) The Minister may by Order published in the *Gazette*— Appointment of Customs airport.

- (a) appoint any area in Grenada as a customs airport, intended for that purpose;
- (b) alter the name or limits of any customs airport;
- (c) revoke the appointment of any customs airport; or
- (d) impose any condition or restriction, or vary or revoke any condition or restriction imposed on the use of any area in Grenada as a customs airport.

(2) A person in control of a customs airport shall—

- (a) permit a proper officer at any time to enter upon and inspect that customs airport and all building and goods on it; and
- (b) if required by the Comptroller—
 - (i) keep a record, in such form and manner and containing such particulars as the Comptroller may direct, of any aircraft arriving at or departing from that customs airport;

- (ii) keep such record available and produce it on demand to any proper officer, together with all other documents kept at the customs airport relating to the movement of that aircraft; and
- (iii) permit a proper officer to make copies of, take extracts from or remove, for a reasonable period, any record or document.

(3) A person who contravenes or fails to comply with any provision of this section commits an offence, and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars.

Examination
stations.

16.—(1) The Comptroller may, in such manner as the Comptroller thinks fit, approve as an “examination station”, a part of or a place at a port or a customs airport or any other for the loading, unloading or examination of goods, and for the embarkation and disembarkation of passengers.

(2) An approval under subsection (1), may be for such periods and subject to such conditions or restrictions as the Comptroller thinks fit.

(3) The Comptroller may at any time—

- (a) in such manner as the Comptroller thinks fit; and
- (b) for reasonable cause,

revoke or vary the terms of any approval given under this section.

(4) A person who contravenes or fails to comply with any condition or restrictions under this section commits an offence and is liable on summary conviction, to a fine not exceeding ten thousand dollars.

17.—(1) The Comptroller may, in such manner as the Comptroller thinks fit, approve as a “transit shed”, any building or place in any customs controlled area, for the deposit of goods imported or to be exported. ^{Transit sheds.}

(2) An approval under subsection (1), may be for such periods and subject to such conditions and restrictions as the Comptroller thinks fit.

(3) The Comptroller may at any time—

- (a) in such manner as the Comptroller thinks fit; and
- (b) for reasonable cause,

revoke or vary the terms of any approval given under this section.

(4) A person who contravenes or fails to comply with any condition or restriction imposed under this section commits an offence, and is liable, on summary conviction, to a fine not exceeding ten thousand dollars.

18.—(1) The Comptroller may, by notice in writing, require the person who is authorised to operate a customs controlled area to— ^{Accounting for goods.}

- (a) account for goods that the Comptroller believes have been entered into that customs controlled area; and

- (b) produce any documents, books and or records, whether in electronic form or otherwise, relating to the movement of goods into or out of the customs controlled area.

(2) A person who fails or refuses to comply with subsection (1), commits an offence and is liable on summary conviction, to a fine not exceeding twenty five-thousand dollars.

Production of goods.

19.—(1) A proper officer may require the person who is authorised to operate a customs controlled area, to produce to the proper officer, goods, which according to any record, are within the customs controlled area.

(2) An operator of a customs controlled area who fails or refuses to produce, or account for, any goods when required to do so under this section, commits an offence and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars.

PART IV

ARRIVAL AND DEPARTURE

Prior notification of arrival.

20.—(1) With respect to vessels and aircrafts, unless exempted by the Comptroller by reason of proximity, the master or commander of a vessel or an aircraft, or the relevant agent of the master or commander shall register the arrival of the aircraft or ship with the Customs Computerised System, the Comptroller or a proper officer, in the form and manner prescribed by regulations—

- (a) in the case of the vessel, at any time prior to the arrival of the vessel, but not less than 24 hours before the arrival of the vessel; and
- (b) in the case of the aircraft, at any time prior to the arrival of the aircraft, but not less than 15 minutes after departure of the aircraft from the foreign airport.

(2) The declaration shall contain the following information—

- (a) the estimated time of arrival of the vessel or aircraft;
- (b) the customs place at which the vessel or aircraft will arrive;
- (c) a list of its cargo on board the vessel or aircraft for discharge within Grenada, whether commercial or non-commercial;
- (d) a list of its commercial cargo on board the vessel or aircraft, if any, not intended for discharge within Grenada; and
- (e) a list of all passengers and crew on board the vessel or aircraft.

(3) On the arrival of a vessel or aircraft within Grenada or the waters of Grenada, the master or commander or the agent of the master or commander shall proceed directly to the customs place notified in accordance with subsection 2 (b), unless directed elsewhere by the proper officer.

(4) An agent of the master or commander referred to in subsection (1), may perform the duties referred to in that subsection on behalf of the master or commander.

(5) A master or commander of a vessel or aircraft or the agent of the master or commander who fails to comply with subsection (1) or any direction given by the proper officer under subsection (3), commits an offence and is liable, on summary conviction, to a fine not exceeding ten thousand dollars.

Requirement to answer questions.

21.—(1) This section applies to—

- (a) a conveyance that has arrived in Grenada from a place outside Grenada;
- (b) a conveyance departing from Grenada for a place outside Grenada;
- (c) a conveyance that is within Grenada that is carrying international cargo or international crew or any international passenger, whether or not the conveyance is also carrying domestic cargo; and
- (d) any other conveyance that is within Grenada, that a customs officer has reasonable cause to suspect has been, or is about to be, involved in—
 - (i) the commission of an offence under this Act; or
 - (ii) the importation or exportation of any dutiable, uncustomed, prohibited, restricted or forfeited goods.

(2) A specified person to which this section applies shall—

- (a) answer any question asked by the proper officer relating to the conveyance, and any persons or goods that are or have been carried by the conveyance; and
- (b) at the request of the proper officer, produce any documents within that person's possession or control relating to any of those matters.

(3) A specified person referred to in subsection (2) who—

- (a) refuses to answer any question put to that person by the proper officer under subsection 2 (a), or knowingly gives a false answer to any question; or
- (b) fails to comply with any request made under subsection 2 (b),

commits an offence and is liable on summary conviction, to a fine not exceeding twenty-five thousand dollars.

(4) For the purposes of this section “specified person” means—

- (a) the master, commander, driver, owner, operator or any member of the crew of a conveyance to which this section applies;
- (b) the agent of the master, commander, driver or owner of a conveyance to which this section applies;
- (c) any passenger on a conveyance to which this section applies.

Request to stop a conveyance.

22.—(1) A person in charge of a conveyance arriving within Grenada shall, on being directed by the proper officer to do so—

- (a) stop the conveyance for boarding; and
- (b) ensure that the conveyance remains stopped until the proper officer directs that the conveyance may proceed.

(2) When a proper officer is on board a conveyance being used in the service of the State, that officer is required to properly identify himself.

(3) The person in charge of a conveyance referred to in subsection (1) shall—

- (a) by all reasonable means, facilitate the boarding of the conveyance by the proper officer; or
- (b) if so directed by the proper officer, cause that conveyance to leave Grenada immediately.

(4) An officer who proposes to give a direction under subsection (3) (b), shall first obtain the approval of the Comptroller to do so.

(5) A person in charge of a conveyance who fails to comply with any provision of this section commits an offence, and is liable, on summary conviction, to a fine not exceeding fifty thousand dollars.

23.—(1) Where a conveyance—

- (a) arrives in Grenada; and
- (b) is carrying persons or goods subject to the control of Customs, from a place outside Grenada,

Conveyance to arrive at notified place only.

the master, commander or driver or his agent shall ensure that the conveyance, lands, anchors, or otherwise arrives only at the place notified by that person in the declaration filed under section 20 or as elsewhere directed by the proper officer.

(2) On arrival at the notified place or the place directed to by the proper officer, or a customs controlled area within that place, and until an inward report in accordance with section 27 has been made, no person shall leave or board the conveyance unless authorised to do so by the proper officer.

(3) A person who contravenes sub-section (1) or (2), commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars.

24.—(1) Section 23 does not apply to a conveyance that berths, lands, anchors, or otherwise arrives at a place other than the place notified in accordance with section 20 (2) (b), or at the place directed to by the proper officer under section 20 (3), if the arrival is—

Conveyance arriving at place other than notified place.

- (a) required by any statutory or other requirement relating to navigation;
- (b) compelled by accident, stress of weather, or other necessity; or

(c) authorised by the Comptroller.

(2) Where by reason of sub-section 1 (a) (b) or (c), a conveyance arrives at a place other than the place notified in accordance with section 20 (2) (b), or directed to by the proper officer under section 20 (3), the master, commander or driver of the conveyance—

- (a) shall immediately report the arrival of the conveyance to the proper officer or to a police officer;
- (b) shall not, without the consent of the proper officer, permit—
 - (i) any goods carried in the conveyance to be unloaded from it; or
 - (ii) any of the crew or passengers to depart from its vicinity; and
- (c) shall comply with any customs directions given by the proper officer in respect of any goods, crew, or passengers carried in the conveyance.

(3) Subject to any authorization granted by the Comptroller—

- (a) no member of the crew and no passenger on the conveyance shall, without the consent of the proper officer—
 - (i) unload goods from the conveyance; or

(ii) depart from the vicinity of the conveyance;

(b) every member of the crew and every passenger on board the conveyance, shall comply with any customs directions given by the proper officer.

(4) When a conveyance is directed by the proper officer pursuant to section 20 (3), to arrive at a place other than the place notified in accordance with section 20 (2) (b), no person shall depart from or board the conveyance unless authorised to do so by the proper officer.

(5) A person who contravenes sub-section (2), (3) or (4) commits an offence, and is liable on summary conviction to a fine of fifty thousand dollars.

(6) Notwithstanding subsection (5)–

(a) the departure of passengers or members of the crew from the vicinity of the conveyance; or

(b) the removal of goods from the conveyance,

does not constitute an offence, if such departure or removal is necessary for reasons of health, safety or the preservation of life or property.

25.—(1) The Minister may make regulations with respect to the arrival, report and departure of a pleasure craft. Control of pleasure craft.

(2) Regulations under sub-section (1) may allow the Comptroller to give such directions as he thinks fit, and may provide for—

- (a) the imposition of a fine not exceeding ten thousand dollars and forfeiture of the vessel or goods involved, for contravention of or failure to comply with any such regulations or any direction given under such regulations;
- (b) the forfeiture of any vessel or goods involved in any such offence.

(3) For the purposes of this section, “pleasure craft” means—

- (a) a vessel that, at the time of its arrival at a place in Grenada, is being used for private recreational purposes only; or
- (b) a vessel that the proper officer, after application is made to him in writing, permits to be treated as a pleasure craft.

Small craft.

26.—(1) The Minister may make regulations in respect of vessels not exceeding one hundred tons burden by prescribing, with reference to the tonnage, build or general description of such vessels—

- (a) the limits and manner within which the vessel may be used or employed;

- (b) the mode of navigation;
- (c) the number and description of arms and the quantity of ammunition that such vessels may carry; and
- (d) such other terms, particulars, conditions and restrictions as the Minister may think fit.

(2) A vessel which is used or employed contrary to any regulations made under sub-section (1) is liable to forfeiture, unless it was specially recommended by the Comptroller to be licenced and so used or employed, as provided in subsection (3).

(3) The Comptroller may recommend to the Minister, if he thinks fit, who may be granted a licence in respect of any vessel not exceeding one hundred tons burden, upon such terms and conditions, and subject to such restrictions and stipulations as may be imposed in respect of such licences.

27.—(1) A report shall be made of the arrival of a conveyance in accordance with subsections (2), (3) and (4) of this section. Report of arrival of conveyance.

(2) Where a vessel arrives at a customs port—

- (a) from a place outside Grenada; and
- (b) carrying goods brought in that vessel from a place outside Grenada and not yet cleared on importation,

the master shall, within 6 hours of that arrival, submit to the Customs Computerised System, the Comptroller or a proper

officer, a report in such form and manner and containing such particulars as the Comptroller may direct.

(3) Where an aircraft arrives at a customs airport—

- (a) from a place outside Grenada; and
- (b) carrying goods or passengers taken on board that aircraft at a place outside Grenada being goods or passengers either—
 - (i) bound for a destination in Grenada and not yet cleared at a port; or
 - (ii) bound for a destination outside Grenada,

the commander of the aircraft shall upon arrival and before departure, submit to the Customs Computerised System, the Comptroller or a proper officer, a report in such form and manner and containing such particulars as the Comptroller may direct.

(4) Where a master, commander or agent of a vessel or aircraft fails to submit a report as required by this section, the master, commander or agent of the vessel or aircraft, commits an offence, and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars.

(5) When a report submitted under this section is inaccurate, the persons submitting the report, shall within 72 hours of the making of the report or such longer period as the Comptroller may allow, be permitted to amend the report.

(6) When goods appear on any clearance or manifest required to be produced but do not appear in the report filed under this section, then, unless the report is amended under sub-section (6), the master, commander or agent commits an offence, and is liable, on summary conviction to a fine not exceeding twenty-five thousand dollars, and in addition he shall pay the duty on the goods.

(7) When a report made under this section is inaccurate and the maker of the inaccurate report satisfied the Comptroller that the error was not made knowingly or recklessly, then notwithstanding any other provisions of any customs enactment—

- (a) that person shall not be guilty of an offence; and
- (b) where the error consisted of the omission or incorrect reporting of any goods, those goods shall not be liable to forfeiture.

(8) A person who is required to submit a report under this section shall—

- (a) answer all questions relating to the vessel or aircraft, and its cargo, stores, baggage, crew, passengers, voyage or flight as may be put to him by the proper officer; and
- (b) produce all books and documents in his custody or control relating to the conveyance, its cargo, stores, baggage, crew, passengers, voyage or flight as the proper officer may require.

(9) A person who contravenes sub-section (8) commits an offence and is liable, on summary conviction, to a fine not exceeding twenty-five thousand dollars.

(10) If, at any time after a conveyance carrying goods from a place outside Grenada arrives in Grenada and, before a report has been made in accordance with this section—

- (a) bulk is broken;
- (b) goods are unloaded from or taken on board that conveyance;
- (c) any alteration is made in the stowage of any goods carried, so as to facilitate the unloading of any part before the required report has been made; or
- (d) such goods are staved, destroyed or thrown overboard, or any container is opened,

then, unless the matter is explained to the satisfaction of the Comptroller, the master, commander, driver or agent commits an offence, and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars, and any goods in respect of which the offence is committed are liable to forfeiture.

(11) The Comptroller may require goods reported as stores on board any vessel or aircraft, or any portion of such goods, to be entered for warehousing and, for the purposes of this subsection, the master or commander or agent shall be deemed to be the importer of those goods.

(12) Where—

- (a) a report submitted under this section is erroneous, misleading or defective in any material particular; or
- (b) a document submitted in support of the report is not genuine or is erroneous or misleading,

the master, commander, driver or agent commits an offence, and is liable, on summary conviction, to a fine not exceeding twenty-five thousand dollars.

28.—(1) Notwithstanding any other provisions of this Act, the master of a vessel or his agent, or the commander of an aircraft or his agent, having a commission from Grenada or from any other country, who has on board any goods other than stores, laden at any port or place outside Grenada shall, on arrival in Grenada or when called upon to do so by a proper officer, before any of the goods are unloaded—

- (a) provide to the best of his knowledge and to the satisfaction of the proper officer, a written account of—
 - (i) the goods;
 - (ii) the quality and quantity of every package or parcel of such goods;
 - (iii) the marks and numbers of the goods; and
 - (iv) the names of the respective consignors and consignees;

- (b) make a declaration at the foot of the written account that the information provided is accurate to the best of his knowledge; and
- (c) truthfully answer questions concerning the goods asked by a proper officer.

(2) The master or commander or his agent of a vessel or aircraft who contravenes sub-section (1) commits an offence, and is liable, on summary conviction to a fine not exceeding ten thousand dollars.

(3) Vessels and aircrafts referred to in sub-section (1) are subject to be searched as non-commissioned vessels and aircrafts.

(4) Proper officers may freely enter and go on board vessels and aircraft referred to in sub-section (1), and bring from them, or cause to be brought into the Queen's Warehouse, any goods found on board.

(5) Sub-sections (3) and (4) are subject to such regulations in respect of vessels or aircraft of war belonging to the State, as shall be prescribed by the Minister.

(6) When there is a failure to make a report as required by this section, the master or commander or his agent commits an offence, and is liable, on summary conviction, to a fine not exceeding ten thousand dollars.

(7) When a report made under this section is inaccurate, the maker of the report shall, within 72 hours of the making of the report or such longer period as the Comptroller may permit, be allowed to amend it.

(8) When goods appear on any clearance or manifest required to be produced but do not appear in the report filed under this section, then, unless the report is amended under sub-section (7), the master or commander or his agent commits an offence, and is liable, on summary conviction, to a fine not exceeding ten thousand dollars, and in addition, he shall pay the duty on the goods.

(9) Notwithstanding any other provision of this Act or any other customs enactment, when a report made under this section is inaccurate, and the maker of the inaccurate report satisfied the Comptroller that the error was not made knowingly or recklessly—

- (a) that person shall not be guilty of an offence; and
- (b) where the error consisted of the omission or incorrect reporting of any goods, such goods shall not be liable to forfeiture.

(10) A person who is required to make a written report under this section shall—

- (a) answer all questions relating to the vessel or aircraft, its cargo, stores, baggage, crew, passengers, voyage or flight as may be put to him by the proper officer; and
- (b) produce all books, documents in his custody or control relating to the vessel or aircraft, its cargo, stores, baggage, crew, passengers, voyage or flight as the proper officer may require.

(11) Notwithstanding any fine imposed under sub-section (6), a person who contravenes sub-section (10) commits an offence, and is liable, on summary conviction, to a fine not exceeding ten thousand dollars.

(12) If at any time after a vessel or aircraft carrying goods from a place outside Grenada arrives in Grenada, and before a report has been made in accordance with this section—

- (a) bulk is broken;
- (b) goods are unloaded from or taken on board that vessel or aircraft;
- (c) any alteration is made in the stowage of any such goods carried, so as to facilitate the unloading of any part before the required report has been made; or
- (d) such goods are staved, destroyed or thrown overboard, or any container is opened,

then, unless the matter is explained to the satisfaction of the Comptroller, the master or commander or his agent commits an offence, and is liable, on summary conviction, to a fine not exceeding ten thousand dollars.

(13) The Comptroller may require—

- (a) goods reported as stores on board any vessel or aircraft; or
- (b) any portion of such goods,

to be entered for warehousing and, for the purposes of this subsection, the master or commander or his agent shall be deemed to be the importer of those goods.

(14) Where—

- (a) a report submitted under this section is erroneous, misleading or defective in any material particular; or
- (b) a document submitted in support of the report is not genuine or is erroneous or misleading,

the master or commander or his agent commits an offence, and is liable, on summary conviction, to a fine not exceeding ten thousand dollars.

29.—(1) Subject to sub-section (3) and such exemptions as may be prescribed, a person who is on board a conveyance which arrived in Grenada, shall comply with every customs direction with respect to disembarkation.

(2) Subject to sub-sections (1) and (3) and such exemptions as may be prescribed, a person who disembarks from a conveyance to which this section applies shall, unless otherwise directed by the proper officer—

- (a) go to the designated customs controlled area; and
- (b) remain in such areas for such reasonable time as the proper officer may require, for the purposes of enabling the proper officer to exercise, in relation to that person, any power under this Act.

(3) A proper officer may exempt a person generally or specifically from the application of sub-section (1) or (2).

(4) A person, other than a person exempted by sub-section (3), who knowingly fails to comply with any requirement imposed by this section commits an offence, and is liable, on summary conviction, to a fine not exceeding ten thousand dollars.

(5) Notwithstanding sub-section (4), the departure of any person from a designated controlled area does not constitute an offence, where the departure is necessary for reasons of health, safety or the preservation of life.

(6) For the purposes of this section and section 32, a customs direction includes a direction given by the person in charge of the conveyance, or by a crew member in accordance with the directions of the proper officer.

Baggage to be presented.

30.—(1) Subject to any exemptions as may be prescribed, a person who disembarks from a conveyance that has arrived in Grenada from a place outside Grenada, shall—

- (a) present his accompanying baggage to the proper officer for examination by the proper officer;
- (b) comply with any customs direction relating to the movement of such baggage—
 - (i) within the customs controlled area; or
 - (ii) from any conveyance to a customs controlled area; and

- (c) answer all questions related to matters covered by this Act.

(2) A person moving or handling any baggage referred to in sub-section (1), shall comply with every customs direction relating to the movement of the baggage—

- (a) within the customs controlled area; or
- (b) from any conveyance to a customs controlled area; and
- (c) answer all questions related to matters covered by this Act.

(3) A person who knowingly fails to comply with any requirement imposed by this section commits an offence, and is liable, on summary conviction, to a fine not exceeding ten thousand dollars.

31.—(1) Subject to such exemptions as may be prescribed or unless otherwise authorised by the proper officer, no person shall depart for a place outside Grenada other than a customs controlled area.

Persons departing from Grenada to depart from customs controlled area.

(2) A person who knowingly fails to comply with sub-section (1) commits an offence, and is liable on summary conviction to a fine not exceeding ten thousand dollars.

32.—(1) A person preparing to board a conveyance for departure from Grenada, shall comply with every customs direction with respect to embarkation.

Embarkation.

(2) A person who knowingly fails to comply with sub-section (1) commits an offence, and is liable on summary conviction to a fine not exceeding ten thousand dollars.

Outgoing
baggage to be
presented.

33.—(1) Subject to such exemptions as may be prescribed, every person who arrives at a customs controlled area for embarkation on to a conveyance which has, as its destination, a place outside Grenada shall—

- (a) upon request by the proper officer, make his accompanying baggage available for examination by the proper officer; and
- (b) comply with any customs direction relating to the movement of the baggage within the customs controlled area, or from a customs controlled area to a conveyance.

(2) A person moving or handling the baggage referred to in sub-section (1) shall comply with every customs direction relating to the movement of the baggage within the customs controlled area or from a customs controlled area to a conveyance.

(3) A person who knowingly fails to comply with sub-section (1) or (2), commits an offence, and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars.

Certificate of
clearance.

34.—(1) Unless otherwise approved by the Comptroller, before any certificate of clearance is granted to the master, commander or agent of a vessel or aircraft to which section 35 applies, the master, commander or agent shall—

- (a) submit to the proper officer within such time or times as may be prescribed, an outward report in such form and manner, and containing such particulars verified by declar-

ation, as may be prescribed, and accompanied by such supporting documents as may be required by the proper officer;

- (b) answer any question asked by the proper officer relating to the vessel or aircraft and its passengers, crew, cargo, stores, and its intended voyage or flight;
- (c) submit to the proper officer, an account of the cargo and stores taken on or remaining on board the vessel or aircraft in Grenada;
- (d) produce all books and documents in the custody or control of the master or commander, which relate to—
 - (i) the vessel or aircraft;
 - (ii) the cargo, stores, baggage, crew, passengers of the vessel or aircraft; or
 - (iii) voyage or flight of the vessel or aircraft;
- (e) produce such other documents as may be required by the proper officer, relating to the vessel or aircraft and its passengers, crew, cargo, stores, and its intended voyage or flight; and
- (f) comply with all requirements of this Act or any other Act, concerning the vessel or aircraft and its passengers, crew, stores and its intended voyage or flight.

(2) Where clearance is sought for a vessel or aircraft which—

- (a) is in ballast; or
- (b) has on board only stores, passengers' baggage or empty containers upon which no freight or profit is earned,

the proper officer granting clearance shall clear the vessel or aircraft as in ballast.

(3) A master or commander of a vessel or aircraft who—

- (a) fails to comply with subsection (1) (a);
- (b) refuses to answer any questions put to that person by the proper officer under subsection (1) (b), or knowingly gives a false answer to a question; or
- (c) fails to produce any documents required by the proper officer,

the master or commander commits an offence, and is liable on summary conviction, to a fine not exceeding twenty-five thousand dollars.

(4) Where—

- (a) an outward report submitted pursuant to subsection (1) is erroneous, misleading or defective in any material particular; or

- (b) any document submitted in support of the report filed in accordance with sub-section (1) is not genuine or is erroneous or misleading,

the master or commander commits an offence, and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars.

35.—(1) Unless otherwise approved by the Comptroller, where a conveyance has, as its destination, a place outside Grenada, the master, commander or agent shall not cause that conveyance to depart from Grenada unless that person has received clearance in the prescribed form. Clearance of conveyances.

(2) Subject to such exemptions as may be prescribed, the master, commander or agent of the conveyance referred to in sub-section (1), shall not cause that conveyance to depart—

- (a) from the place in Grenada where it first arrived; or
- (b) from any subsequent place of call within Grenada,

without the permission of the proper officer and subject to the production, to the proper officer, of any documents that the proper officer may require, and to any conditions imposed by the Comptroller.

(3) Where it appears to a customs officer that a conveyance is likely to depart for a destination outside Grenada without clearance, the officer may give such instructions and take, in accordance with section 127, such steps by way of the detention of the conveyance as appear to him necessary to prevent the departure.

(4) Where a conveyance required to be cleared under this section—

- (a) departs from a customs place for a destination outside Grenada without a valid certificate of clearance; or
- (b) after clearance, calls at a customs place without the permission of the proper officer,

the master, commander, driver or agent of the conveyance commits an offence and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars, and the conveyance is liable to forfeiture.

(5) Notwithstanding sub-section (4), the master, commander, driver or agent of the conveyance does not commit an offence, if by reason of accident, stress of weather or other unavoidable cause, the conveyance—

- (a) departs from a customs place for a destination outside Grenada without a valid customs certificate of clearance; or
- (b) after clearance, calls at a customs place without the permission of the proper officer.

(6) A clearance granted in respect of a conveyance becomes void, if after 24 hours of the granting of the clearance—

- (a) the vessel cleared has not left the territorial waters of Grenada; or

- (b) the aircraft cleared has not taken off for a destination outside Grenada.

36.—(1) The master or commander or agent to whom a certificate of clearance has been granted shall—

Production
of certificate
of clearance.

- (a) on demand by the proper officer, produce the certificate of clearance for examination by the proper officer; and
- (b) answer any question which the proper officer may put to him concerning the vessel or aircraft, its passengers, crew, cargo, stores, and intended voyage or flight.

(2) For the purposes of sub-section (1), a proper officer may go on board a vessel or aircraft that has been cleared outwards, and demand the production of the certificate of the vessel or aircraft—

- (a) in the case of a vessel, at any time while the vessel is within the limits of a port or within the territorial waters of Grenada; or
- (b) in the case of an aircraft, at any time while the aircraft is at a customs airport.

(3) A master, commander, owner or his agent of a vessel, an aircraft or conveyance who—

- (a) fails to comply with a demand made by the proper officer under this section; or
- (b) refuses to answer any question put to that person under this section; or

- (c) knowingly gives a false answer to a question put to him under this section,

commits an offence, and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars.

Power to refuse or revoke clearance.

37.—(1) For the purpose of securing—

- (a) the detention of a conveyance under any power of duty conferred or imposed by this Act, or any other customs enactment; or
- (b) compliance with any provision of a customs enactment, a proper officer may—
 - (i) at any time refuse clearance of any conveyance; or
 - (ii) where clearance has been granted, at any time while the vessel is within territorial waters of Grenada or the aircraft is at customs airport,

revoke any clearance previously granted.

(2) Revocation of a clearance may be made either orally, or in writing, to the master, commander or agent, and if made in writing, may be served—

- (a) by delivering it to the master, commander or agent personally;
- (b) by leaving it at the last known place of abode or business in Grenada of the master, commander or agent; or

- (c) by leaving it on board the conveyance with the person appearing to be in charge or command of it.

(3) A clearance becomes void upon its revocation under sub-section (2).

(4) Where a revocation of a clearance is made under sub-section (2), and that revocation is not complied with within 3 hours, the master, commander or agent commits an offence, and is liable, on summary conviction, to a fine not exceeding twenty-five thousand dollars.

38.—(1) Subject to such exemptions as may be prescribed, a master, commander or agent of a conveyance shall not, except with the prior permission of the Comptroller—

Departure to be from customs controlled areas only.

- (a) cause a conveyance to depart for a place outside Grenada, from a place in Grenada, other than from a customs controlled area; or
- (b) having obtained clearance from a customs controlled area in Grenada, depart for any point outside Grenada, cause that conveyance—
 - (i) to fail to depart immediately from that area; or
 - (ii) to go to any other place in Grenada.

(2) A master or commander or agent of a conveyance who contravenes sub-section (1) commits an offence, and is liable, on summary conviction to a fine not exceeding twenty-five thousand dollars.

(3) Sub-section (1) does not apply to a conveyance which is compelled by accident, stress of weather, or other necessity, to return to a place in Grenada, and in any such case, the provisions of section 24 shall apply to any modification that may be necessary.

PART V

IMPORTATION

ENTRY AND ACCOUNTING FOR GOODS

Imported goods
subject to
customs control.

39.—(1) Goods shall be subject to the control of Customs from the time of importation, until they are legally removed from a customs controlled area or placed under a customs procedure—

- (a) for home use;
- (b) for exportation from Grenada; or
- (c) allowed under this Act, when the Comptroller is satisfied that all conditions have been met.

(2) For the purposes of sub-section (1), goods that are removed from a customs controlled area to another customs controlled area are not deemed to be removed for home use.

(3) The Minister may by regulations prescribe—

- (a) requirements for the measuring and weighing of goods; and

- (b) such other special requirements regarding the handling or processing of goods.

40.—(1) The importer of goods, other than goods that are exempt under sub-section (2) from the requirements of this section, shall register with the Customs Computerised System, the Comptroller or a proper officer a truthful declaration of entry of the goods in such form and manner and within such time period as may be prescribed by regulations. Entry of goods on importation.

(2) The following goods are exempt from the requirements of this section—

- (a) fresh fish taken by any person legally entitled to fish in Grenada and brought by such persons in his vessel; and
- (b) passenger baggage in accordance with regulations made under this Act.

(3) Subject to sub-section (5), goods may be entered under subsection (1)—

- (a) for warehousing, if so eligible;
- (b) for home use, if so eligible;
- (c) for transit or transshipment; or
- (d) in such other cases as the Comptroller may permit, for temporary retention with a view to subsequent exportation.

(4) Nothing in this section prevents, subject to any conditions as may be prescribed, the processing of an entry of goods prior to the importation of the goods into Grenada.

(5) When an entry made under sub-section (1) is inaccurate in any particular, the importer shall, within 48 hours of the submission of the entry, or such longer period as the Comptroller may allow, submit to Customs a full and accurate account of the goods.

(6) Notwithstanding any other provisions of any customs enactment, when an inaccurate entry is submitted, and the Comptroller is satisfied that the inaccuracy was inadvertent or immaterial except for statistical purposes, then—

- (a) the importer shall not be guilty of any offence by reason only of the submission of the inaccurate entry; and
- (b) the goods in respect of which the inaccurate entry is submitted, shall not be liable to forfeiture by reason of such inaccuracy of the entry.

(7) Notwithstanding the requirement to submit a declaration of entry of goods under sub-section (1), the Comptroller may permit the delivery of any bullion, currency, notes or coins imported into Grenada to the importer, but where the importer fails within 48 hours after the bullion, currency, notes or coins has been delivered, to submit to the proper officer a full and true account including weight and value of any such bullion, currency, notes or coins, the importer commits an offence and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars.

(8) If in the time set forth in regulations made in accordance with sub-section (1) for entry—

- (a) no entry has been made; or
- (b) goods have not been unloaded or produced for examination and clearance,

the master, commander or agent in charge of the conveyance in which the goods were imported may enter, unload or produce the goods for examination and clearance.

(9) Where the importer enters goods subsequent to the filing of a declaration of an entry under sub-section (8), that entry shall be substituted for the entry made under sub-section (8).

(10) A person entering goods may, in accordance with any conditions that the proper officer may impose—

- (a) inspect the goods; or
- (b) draw samples from the goods.

(11) A person entering goods under this section shall—

- (a) answer any question asked by a proper officer with respect to the goods; and
- (b) on the request of a proper officer—
 - (i) present the goods to the proper officer;
 - (ii) remove any covering from the goods;

- (iii) unload any conveyance or open part of it; or
- (iv) open and unpack any package that the officer wishes to examine.

(12) Subject to sub-sections (6) and (7), a person who contravenes any provision of this section commits an offence, and is liable on summary conviction, to a fine not exceeding twenty-five thousand dollars.

Entry by bill of sight.

41.—(1) Where an importer is unable for want of full information to make a perfect entry in accordance with this Act, the importer may—

- (a) sign a declaration to that effect before the proper officer; and
- (b) submit to the proper officer an entry of the goods by bill of sight.

(2) Where the Comptroller is satisfied that an importer is unable to obtain the required documents or information concerning goods to be entered, and a declaration under sub-section (1) has been made, the Comptroller shall permit—

- (a) the importer to examine the goods; and
- (b) the entry and delivery of the goods where—
 - (i) the importer submits to the proper officer an entry, in such form and manner and containing such particulars as the Comptroller may direct;

- (ii) the description of the goods is correct for tariff and statistical purposes;
- (iii) in the case of goods liable to *ad valorem duty*, the value of the goods declared on the entry is approximately correct; and
- (iv) in the case of goods liable to duty according to weight or measurement, the weight or measurement as declared on the entry is correct.

42.—(1) Where the Comptroller is unable to make a Provisional assessment. proper assessment of the value of the goods to be entered, due to the failure of the importer to produce satisfactory documentary evidence of the value of the goods, he may direct that the goods be—

- (a) examined and a provisional assessment be made by the proper officer of the value of and duty payable on the goods; and
- (b) provisionally entered based on the payment of the amount of duty calculated by the proper officer, such amount being brought to account as revenue.

(2) Pending final entry of the goods, the importer shall, in addition to the amount paid under sub-section (1)(b), pay as deposit to the Comptroller, an amount equal to fifty percent of the amount provisionally assessed under sub-section (1) (a).

(3) The importer may, with the approval of the Comptroller, secure the deposit payable under sub-section (2) by means of a bond.

(4) When goods are provisionally entered in accordance with subsection (2), notice in writing, in such form as the Comptroller thinks fit, shall be given to the importer indicating—

- (a) the provisional assessment pursuant to sub-section (1) (a);
- (b) the basis for the assessment; and
- (c) the documents, or other information relating to the value of the goods that the importer is required to produce, within 30 days of the provisional entry.

(5) The amount of duty that was provisionally assessed under sub-section (1) (a), shall be treated as the final assessment, and the deposit paid shall be brought to account as revenue where—

- (a) the documents or other information required under sub-section (4) have not been produced within the specified time; or
- (b) the importer informs the Comptroller, in writing, before the expiration of the time specified that he is unable to produce any further documents or information,

unless the importer commences proceedings with the Customs Appeal Commission within the required time period.

(6) Where upon the production of the additional documents or other information required under sub-section (4)(c) to the satisfaction of the Comptroller, the duty assessed by the Comptroller is more or less than the duty provisionally assessed under sub-section (1) (a)–

- (a) the difference in duty shall be refunded to, or paid by the importer; and
- (b) any bond secured for the payment of duties or charges shall be cancelled.

43.—(1) Imported goods shall not be delivered or removed from a customs controlled area except–

Removal of goods from customs controlled area.

- (a) with the permission of Customs, after entry is made in the form and prescribed manner and is accepted;
- (b) under a permit or other authorization granted by the Comptroller in respect of such goods, subject to such conditions as the Comptroller may determine;
- (c) by a proper officer in the performance of his duties; or
- (d) as otherwise provided by any other provision of this Act.

(2) Notwithstanding sub-section (1)(a), while goods remain subject to the Customs control, the Comptroller may revoke any notice of delivery given in respect of those goods.

(3) The Comptroller may, by notice in writing, vary or revoke any conditions under which a permit is granted by the Comptroller under sub-section (1).

(4) A person who is dissatisfied with a decision of the Comptroller under sub-section (2) or (3) may, within 2 weeks after the date on which notice of the decision is given, request the Comptroller, in writing, to reconsider the decision.

Removal of
uncleared goods
to customs
warehouse.

44.—(1) When in the case of imported goods—

(a) clearance has not taken place within—

- (i) 7 days of importation by air;
- (ii) 14 days of importation by sea; or
- (iii) 30 days of the transshipment of goods; or
- (iv) such further period as the Comptroller may in any special circumstances allow;

(b) the goods have been cleared, but they have not been unloaded from the importing conveyance by the expiration of the period in sub-section (a),

then the proper officer may, subject to sub-section (2), cause the goods to be deposited in a Queen's Warehouse in accordance with the provisions of Part VIII.

(2) The goods shall not be deposited in a Queen's Warehouse if they are—

- (a) of a type set out in Schedule I; or
- (b) in the opinion of the Comptroller, of a perishable nature,

in which case the Comptroller may sell or otherwise dispose of them.

(3) The Comptroller shall provide notice to the importer or his agent within 7 days of the decision to remove the goods under sub-section (1), or to sell or otherwise dispose of them under sub-section (2).

(4) Where a restriction is placed upon the unloading of goods from a conveyance by virtue of an enactment relating to the prevention of an epidemic or infectious disease, then, in relation to those goods, the date of the removal of the restriction will be deemed to be the date of importation.

45.—(1) This section applies to—

- (a) goods chargeable with duty that has not been paid;
- (b) goods on which drawback has been paid; and
- (c) any other goods that have not been cleared by Customs.

Control of
movement
of uncleared
goods.

(2) The Minister may make regulations respecting the manner in which, and the conditions under which, goods subject to this section may be moved—

- (a) within any customs controlled area;
- (b) between customs controlled areas; or
- (c) between a customs controlled area and any other place.

(3) Regulations issued under sub-section (1) may require that goods referred to in sub-section (2) only be moved—

- (a) by a person licenced by the Comptroller for that purpose; or
- (b) in such conveyance, or by such other means, as may be approved by the Comptroller for that purpose.

(4) A licence or approval for the purposes of sub-section (3) may be granted for such periods, and be subject to such conditions and restrictions as the Comptroller thinks fit.

(5) The Comptroller may, at any time, in such manner as he thinks fit and for reasonable cause, revoke or vary the terms of any licence or approval granted under this section.

(6) A person who contravenes or fails to comply with any—

- (a) regulation issued;
- (b) condition imposed; or
- (c) term of any licence or approval granted,

under this section, commits an offence, and is liable on summary conviction to a fine not exceeding ten thousand dollars.

46.—(1) The Comptroller may by direction, impose conditions and restrictions with respect to the movement of imported goods between the places of importation and— Control of movement of goods.

- (a) a place designated by the Comptroller for the entry and clearance of those goods; or
- (b) the place of exportation of those goods.

(2) Any condition or restriction imposed under sub-section (1) may—

- (a) require the goods to be moved within such period and by such route as may be specified by or under regulations;
- (b) require the goods to be carried in a vehicle or container complying with regulations, and secured in such manner as may be specified under regulations; and
- (c) prohibit, except in such circumstances as may be so specified, the unloading or loading of the vehicle or container or any interference with its security.

(3) Any document required to be created or produced as a result of a direction under sub-section (1) shall—

- (a) be created or produced in such form and manner; and
- (b) contain such particulars as the Comptroller may direct.

(4) The Comptroller may relax any requirement respecting the creation or production of any specific document and if he does so, he may impose substituted requirements.

(5) A person who contravenes any direction under sub-section (1) commits an offence, and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars, and any goods in respect of which the offence is committed under this section, shall be liable to forfeiture.

Treatment of
improperly
imported goods.

47.—(1) Subject to subsection (3), and notwithstanding any other provision of this Act or any other customs enactment, goods shall be liable to forfeiture where such goods are—

- (a) unloaded at any port, unloaded from an aircraft, unloaded from a vessel, unloaded and removed from any customs controlled area without payment of duties due;
- (b) imported, landed or unloaded contrary to any prohibition or restriction in force with respect to them, under or by virtue of any enactment;
- (c) prohibited or restricted goods by or under any enactment, whether before or after unloading, to have been concealed in any manner on board a conveyance;
- (d) chargeable with duty and are found, whether before or after unloading, or have been concealed in any manner on board a conveyance;

- (e) imported, concealed in a container holding goods of a different description;
- (f) found, whether before or after delivery, not to correspond with the entry made in respect of them; or
- (g) concealed or packed in any manner intended to deceive a customs officer.

(2) Sub-section (1) (a) does not apply where an enactment expressly provides otherwise.

(3) A person who—

- (a) imports or causes to be imported goods—
 - (i) concealed in a container holding goods of a different description; or
 - (ii) packed in a manner appearing to be intended to deceive a customs officer; or
- (b) directly or indirectly imports or causes to be imported or entered, goods found, whether before or after delivery, not to correspond with the entry made in respect of them,

commits an offence, and is liable on summary conviction to a fine not exceeding one hundred thousand dollars or equivalent to three times the value of the goods, whichever is greater, and the consignment shall be forfeited.

Importation by
post.

48.—(1) This Act applies to postal packets and mail in the same manner, so far as is reasonable, as it applies to any other goods and—

- (a) persons may be punished for offences against this Act and any other customs enactment;
- (b) goods may be examined and seized; and
- (c) legal action may be instituted in relation to any matter mentioned in paragraph (a) or (b).

(2) Where goods contained in a postal packet do not correspond with any declaration of contents made in respect of them, those goods are liable to forfeiture.

(3) Unless otherwise provided by law, postal packets imported into Grenada shall not be removed from customs control, until all duty and taxes chargeable on the goods in the postal package have been paid.

(4) The Postmaster General shall have the right of recovery for the amount he would have been entitled to as postage from any sum paid, in pursuance of any customs enactment or otherwise under customs regulations, in respect of any postal package.

Time of
importation.

49.—(1) The time of importation of goods shall be deemed to be—

- (a) where the goods are brought by sea, the time when the vessel carrying the goods comes within the territorial waters of Grenada; or

- (b) where the goods are brought by air, the time when the aircraft carrying them lands in Grenada.

50. The Minister may—

Appointment of entities to collect duties and taxes.

- (a) appoint entities to collect duties and taxes assessed by Customs; and
- (b) make regulations respecting such appointment.

PART VI

EXPORTATION AND LOADING

51.—(1) Goods to be exported are subject to customs control—

Goods for export subject to customs control.

- (a) where such goods are in a package to which a customs seal has been applied, from the time when a customs seal is first applied to the package, until the exportation of the goods to a place outside Grenada, whether or not any other paragraph of this subsection applies to the goods;
- (b) where such goods are to be exported under drawback, from the time of the claim for drawback or the time the goods are brought to a customs controlled area for exportation, if earlier, until the exportation of the goods to a place outside Grenada; and

- (c) where the goods are to be exported otherwise than under drawback, from the time when the goods are brought to a customs controlled area for exportation, whether or not the goods are later transported from that area to any other location, and, if the goods are transported to another location, during the transportation, until their exportation to a place outside Grenada.

(2) For the purposes of sub-section (1), goods which are removed from a customs controlled area to another customs controlled area are not deemed to be removed for home use.

Entry of goods
for exportation.

52.—(1) Subject to section 53, the exporter of goods, other than passengers' accompanied baggage, shall register with the Customs Computerised System, the Comptroller or a proper officer an export entry declaration in respect of those goods—

- (a) in such form and manner and containing such particulars as may be prescribed; and
- (b) within such time as may be prescribed, or such further time as the Comptroller may allow.

(2) A person who submits an entry under this section shall—

- (a) answer any question asked by the proper officer with respect to the goods; and
- (b) at the request of the proper officer—
 - (i) present the goods to the proper officer;

- (ii) remove any covering from the goods;
- (iii) unload any conveyance or open any part of it; or
- (iv) open and unpack any package that the officer wishes to examine.

(3) Where an entry made under sub-section (1) is incorrect, the exporter shall, within 48 hours after the submission of the entry or such longer period as the Comptroller may allow, be permitted to submit to the Comptroller, a full and accurate entry covering the goods.

(4) Where the Comptroller is satisfied that the error referred to in sub-section (3) was not made knowingly or recklessly, then, notwithstanding any other provision of any customs enactment—

- (a) the person submitting the declaration shall not be guilty of any offence by reason only of the error; and
- (b) the goods that were the subject of the error shall not be liable to forfeiture by reason only of the error.

(5) Where goods which have been declared for exportation or for use as stores are not loaded on to the conveyance for which they are cleared, or are not exported according to the export entry, the goods shall be liable to forfeiture, unless within 24 hours of the departure of that conveyance, the person who made the entry notifies the proper officer of the failure and the reasons for it.

(6) Where the Comptroller received notice in accordance with subsection (5), he—

- (a) shall cancel or amend the relevant export entry; and
- (b) may, where applicable, allow the goods to be released from customs control.

(7) Except as otherwise permitted by the Comptroller, where a person loads goods on board a conveyance for exportation or for use as stores before the export declaration in respect of such goods has been made, the person commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars and the goods may be liable to forfeiture.

(8) Where loading of goods on board a conveyance referred to in sub-section (7) was done fraudulently, any person concerned in that act commits an offence, and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars or to a term of imprisonment not exceeding two years.

Comptroller may
waive conditions
of shipment.

53.—(1) The Comptroller may waive any of the requirements imposed by section 52 (1) in relation to any class or description of goods, subject to such conditions and restrictions as he may see fit to impose.

(2) The Comptroller may give directions respecting which goods need not to be declared for export by the exporter, until after the departure of the conveyance by which the goods are exported.

(3) Goods permitted to be declared for export after the departure of the conveyance by which they are exported, shall be declared within 24 hours of the clearance of the conveyance, or such further period as the Comptroller may allow.

(4) Where goods are permitted to be declared for export after the departure of the conveyance by which they are exported, the Comptroller shall require the exporter to give security for the payment of any export duties on goods liable to such duties, upon such conditions as the Comptroller may think fit.

(5) Where goods are not declared for export within the time provided by subsection (3), the exporter commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

54.—(1) Unless the Comptroller otherwise permits—

Entry out-
wards of
conveyances.

- (a) before goods for exportation or use as stores are loaded on to a vessel or aircraft; or
- (b) where a vessel or aircraft carrying goods arrive at a port, but it is intended that it will proceed to a destination outside Grenada,

the master or commander or agent shall submit to the proper officer, an entry outwards for the vessel or aircraft, in such form and containing such particulars as the Comptroller may direct.

(2) Where an entry outwards made under sub-section (1) is incorrect, the person who made it shall, within 48 hours

of the making of the entry of departure or such longer period as the Comptroller may permit, be allowed to amend it.

(3) Notwithstanding anything contained in any other provision of any customs enactment to the contrary, where the Comptroller is satisfied that the error was not made knowingly or recklessly—

- (a) the person making the entry of departure shall not be guilty of any offence; and
- (b) the goods that were the subject of the error shall not be liable to forfeiture,

by reason only of the error.

(4) Where—

- (a) a person who is required by sub-section (1) to make an entry of departure fails to do so, that person commits an offence, and is liable, on summary conviction to a fine not exceeding ten thousand dollars.
- (b) goods are loaded on board a conveyance in contravention of sub-section (1)—
 - (i) those goods are liable to forfeiture; and
 - (ii) the master, commander or agent commits an offence, and is liable on summary conviction to a fine not exceeding ten thousand dollars.

55.—(1) Where warehoused goods or goods subject to drawback are to be exported, the Comptroller may require the exporter to give security in the amount of the duty which would have been chargeable on those goods, if such goods had been imported into Grenada for home use. Security for exportation of goods.

(2) The security under sub-section (1) shall be forfeited, if within one month of the exportation of the goods or such longer period as the Comptroller may permit, the exporter does not—

- (a) produce to the Comptroller a certificate, signed by an authorised officer in the country to which the goods were exported, certifying that the goods have been imported into that country; or
- (b) otherwise account for those goods to the satisfaction of the Comptroller.

56.—(1) This Act applies to postal packets and mail in the same manner, so far as is reasonable, as it applies to the exportation of any other goods. Exportation by post.

(2) Without prejudice to sub-section (1) in the application of this Act to the exportation of postal packets—

- (a) persons may be punished for offences against this Act and any other customs enactment;
- (b) the goods may be examined and seized; and

- (c) in relation to any matter mentioned in paragraph (a) or (b), legal action may be taken or instituted.

(3) Where goods contained in a postal packet do not correspond with any declaration of contents made in respect of them, such goods shall be liable to forfeiture.

Time of
exportation.

57. The time of exportation of goods shall be deemed to be the time when the goods are put on board a vessel or aircraft, with the intention that such goods should be exported in that vessel or aircraft.

Offences in
relation to
exportation.

58.—(1) If goods that have been loaded or retained on board a conveyance for exportation or for use as stores are not exported and discharged at a place outside Grenada, or used as stores that are unloaded in Grenada, then unless—

- (a) the unloading was authorised by the proper officer; and
- (b) that officer otherwise permits, duty chargeable on those goods is paid and drawback or other allowance made in respect of those goods is repaid,

the master, commander or any other person involved in the unloading of the goods from the conveyance commits an offence.

(2) The Comptroller may impose such conditions and restrictions as he thinks fit with respect to goods covered by this section, and any failure to comply with this subsection is an offence.

(3) If, after a conveyance has obtained clearance, but before it has left Grenada, it is discovered that goods cleared for exportation or for use as stores are no longer on board, then, unless those goods—

- (a) have been unloaded with the permission of the proper officer; or
- (b) are stores that could reasonably have been consumed since the granting of the clearance,

the master, commander or agent commits an offence and is liable to pay, in addition to any fine that may be imposed under subsection (5), the duty that would have been payable on those goods if entered for home use.

(4) A person commits an offence if that person exports or causes to be exported—

- (a) goods concealed in a container holding goods of a different description;
- (b) goods packed in a manner appearing to be intended to deceive a customs officer;
- (c) goods found not to correspond with the export entry made in respect of them;
- (d) warehoused goods;
- (e) goods chargeable with duty which have been transferred from an importing conveyance; or

(f) goods entitled to drawback on exportation, in a vessel of less than 100 tons burden.

(5) Where a person commits an offence under this section, he is liable, on summary conviction to a fine not exceeding twenty-five thousand dollars, and the goods are liable to forfeiture.

PART VII

COASTING TRADE

Definition of
coasting Trade.

59.—(1) Subject to the provisions of this Part—

- (a) the carriage of goods by sea or by air from one part of Grenada to another part of Grenada is deemed to be a coasting trade; and
- (b) any vessel or aircraft whilst so employed in the carriage of goods referred to in paragraph (a), is deemed to be a coasting vessel or coasting aircraft.

(2) If any doubt arises as to what constitutes a carriage by sea, the Minister may determine and direct in what cases the trade by water from one port or place in Grenada to another in Grenada, is deemed a carriage by sea within the meaning of any customs enactment.

(3) Goods shall not be carried in a coasting vessel or aircraft, except such shall be loaded to be carried coastwise at some port or place in Grenada.

60.—(1) Subject to sub-section (2)—

Limits on
coasting trade.

- (a) goods not yet entered on importation; and
- (b) goods for exportation,

shall not be carried by way of coasting trade on board any coasting vessel or coasting aircraft.

(2) The Comptroller may permit, subject to such conditions and restrictions as he thinks fit—

- (a) a coasting vessel or coasting aircraft to carry goods by way of coasting trade, notwithstanding that the vessel or aircraft is also carrying goods brought in it from a place outside Grenada and not yet entered in Grenada without being treated as a coasting vessel or a coasting aircraft;
- (b) goods brought by another vessel or aircraft to a place in Grenada from a place outside Grenada, that are consigned to and intended to be delivered to another place in Grenada, to be transferred before entry of the goods has been made to a coasting vessel or a coasting aircraft, for carriage by way of coasting trade to that other place; or
- (c) a vessel or aircraft that has begun to load goods for exportation or for use as stores on a voyage to a destination outside Grenada, to carry goods by way of coasting trade until that loading has been completed.

(3) Where goods are—

- (a) carried by way of coasting trade in contravention of sub-section (1); or
- (b) loaded, unloaded, carried or otherwise dealt with contrary to any condition or restriction imposed by the Comptroller under sub-section (2) or (3),

the master or agent commits an offence, and is liable on summary conviction to a fine not exceeding ten thousand dollars.

Provisions relating to vessels and aircraft from places outside Grenada.

61.—(1) Notwithstanding any provision in any customs enactment to the contrary, where a vessel or an aircraft arrives in Grenada from a place outside Grenada—

- (a) having on board cargo intended to be delivered at more than one customs place in Grenada; or
- (b) intending to load cargo for a foreign place at more than one customs place in Grenada,

the proper officer may permit the vessel or aircraft to convey goods from any customs place at which the vessel or aircraft partially discharges its cargo or loads cargo for a foreign place, to its place or places of destination within Grenada, without being a coasting vessel or aircraft.

(2) Goods referred to in subsection (1), shall be completely separated from the inward cargo still on board the vessel or aircraft, to the satisfaction of the proper officer.

(3) A vessel or an aircraft engaged in conveying goods from one customs controlled area within Grenada to another customs controlled area within Grenada, shall by reason thereof, be deemed a coasting vessel or coasting aircraft within the meaning of the Act.

62.—(1) Subject to this section and unless the Comptroller otherwise permits, a master, commander or owner shall not cause a coasting vessel or coasting aircraft to depart from a customs place in Grenada, before the master, or commander or agent has submitted to the Customs Computerised System, the Comptroller or a proper officer a declaration, giving account of the goods carried in that vessel or aircraft.

Clearance of coasting vessels and aircraft.

(2) The declaration to be submitted to the Customs Computerised System, the Comptroller or a proper officer under sub-section (1), shall be in such form and manner and containing such particulars as the Comptroller may direct, and the declaration, when registered, will serve as the clearance of that vessel or aircraft.

(3) Where no officer is stationed at the place where a declaration is required to be produced under sub-section (1), the vessel or aircraft may depart from that place, and the declaration shall be produced to a proper officer at the first customs place at which the vessel or aircraft arrives, where an officer is stationed.

(4) On the application of the master or commander or agent, the Comptroller may grant, subject to such conditions and restrictions as he thinks fit to impose, a clearance for a coasting vessel or aircraft, and any goods carried in it.

(5) A clearance granted under sub-section (4), may be revoked at any time by the Comptroller, by notice in writing

delivered to the master or owner of the vessel, or the commander or owner of the aircraft, or to any member of the crew on board that vessel or aircraft.

(6) Except as provided by this section, where a coasting vessel or coasting aircraft carrying goods departs from a place in Grenada—

- (a) without clearance; or
- (b) in contravention of any conditions or restriction, imposed by the Comptroller, upon a clearance of that vessel or aircraft under subsection (4),

the master or commander or agent commits an offence, and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars.

(7) Any goods in respect of which an offence is committed under this section are liable to forfeiture.

Comptroller may vary procedure.

63. Notwithstanding anything to the contrary contained in this Part, the Comptroller may permit the loading and clearance for export and the entry and unloading of a coasting vessel or aircraft and goods, under such conditions and restrictions as he may in any particular case think fit.

Coastwise passengers.

64. The Minister may make regulations in respect of the carriage of passengers, officers and crew coastwise, whether or not in a coasting vessel or aircraft.

Cargo book.

65.—(1) The master of a coasting vessel and the commander of a coasting aircraft shall—

- (a) keep a cargo book in such form and manner and containing such particulars as may be prescribed; and
- (b) upon demand made by a proper officer, produce such cargo book of that vessel or aircraft for inspection.

(2) Subject to sub-section (3) where—

- (a) goods have been loaded onto or unloaded from a coasting vessel or a coasting aircraft, at a place in Grenada before that vessel or aircraft departs from that place; or
- (b) a coasting vessel or a coasting aircraft arrives at a place in Grenada where goods are to be unloaded, then before any goods are unloaded,

the master, commander or agent of the coasting vessel or aircraft shall produce, to the proper officer, the cargo book of that vessel or aircraft.

(3) Where no customs officer is stationed at the place referred to in sub-section (2) (a)—

- (a) the coasting vessel or coasting aircraft may depart from such place, or the goods may be unloaded at such place; and
- (b) the cargo book of such vessel or aircraft, shall be produced to a proper officer at the first place the coasting vessel or coasting aircraft arrives where an officer is stationed.

(4) The master of a coasting vessel or the commander of a coasting aircraft who fails to keep or produce a cargo book as required by this section, commits an offence, and is liable, on summary conviction, to a fine not exceeding ten thousand dollars or equivalent to three times the value of the goods, whichever is greater.

(5) Where an offence is committed under sub-section (4), the goods in respect of which the offence is committed are liable to forfeiture.

Examination of goods in coasting vessels or coasting aircraft.

66.—(1) The proper officer may examine goods carried, or to be carried, in a coasting vessel or coasting aircraft—

- (a) at any time while they are on board the vessel or aircraft; or
- (b) at any place in Grenada where the goods have been brought for shipment in a coasting vessel or coasting aircraft, or unloaded from a coasting vessel or coasting aircraft.

(2) For the purposes of sub-section (1), a proper officer may require any container to be opened or unpacked by, or at the expense of the owner of the goods.

(3) The proper officer may—

- (a) board and search a coasting vessel at any time during its voyage; and
- (b) at any time, require any document which should properly be on board a coasting vessel, to be produced or brought to the proper officer for examination.

(4) A master or agent of a coasting vessel who does not allow boarding of a vessel under sub-section 3(a), or fails to produce any document which should be on board to the proper officer when required, commits an offence and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars.

67.—(1) The master, commander, or owner of a coasting vessel or coasting aircraft commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars if—

Offences in relation to carriage of goods coastwise.

- (a) in the case of a coasting vessel or coasting aircraft—
 - (i) goods are taken on board the vessel or aircraft or place outside Grenada;
 - (ii) goods are unloaded at a place outside Grenada;
 - (iii) the vessel or aircraft touches at some place outside Grenada; or
 - (iv) the vessel or aircraft deviates from its voyage or flight; and
- (b) the master, commander or agent of the coasting vessel or coasting aircraft fails to promptly report, in writing, the happening of an event mentioned in paragraph (a), to a proper officer, at the first place in Grenada at which the coasting vessel or aircraft arrives and the officer is stationed.

(2) A person commits an offence, and is liable, on summary conviction, to a fine not exceeding ten thousand dollars or equivalent to three times the value of the goods, whichever is greater, if the person causes the goods to be—

- (a) carried by way of a coasting trade or to be shipped for use as stores on a coasting vessel or a coasting aircraft, contrary to any requirement in force in respect of such goods, under or by virtue of any enactment; or
- (b) brought to any place in Grenada, for the purpose of being carried or shipped contrary to any requirement in force in respect of such goods.

(3) Without prejudice to any fine which may be imposed, where any offence is committed under this section, the goods in respect of which the offence is committed are liable to forfeiture.

PART VIII

WAREHOUSING

Approval of
warehouses.

68.—(1) The Comptroller may approve as a warehouse, any secured place in Grenada for the deposit, keeping and security of—

- (a) goods chargeable with customs duties; or
- (b) goods for exportation or for use as stores.

(2) Without prejudice to the generality of sub-section (1), warehouses may be approved under sub-section (1) for the following purposes—

- (a) short-term storage;
- (b) long-term storage under bond;
- (c) manufacturing in bond;
- (d) storage of unclaimed or abandoned goods;
- (e) storage of goods imported contrary to this or any other enactment;
- (f) storage of ships' stores; or
- (g) storage of goods for duty-free shops.

(3) An approval under sub-section (1), may be for such periods and subject to such conditions and restrictions as the Comptroller thinks fit.

(4) The Comptroller may—

- (a) restrict the goods which may be permitted to be warehoused in a particular warehouse, to those goods owned by the occupier of that warehouse; and
- (b) make the approval of warehouse conditional upon the warehousing of a minimum amount of goods during a specified period, which minimum amount

in respect of warehouses restricted under paragraph (a), may differ from the amount in respect of warehouses not so restricted.

(5) The occupier of the warehouse shall—

- (a) be liable for contravention of any condition or restriction imposed under sub-section (3).
- (b) post a bond as may be prescribed in regulations made under this Act, as security for the liability imposed under sub-section (3).

(6) When, after the approval of a secured place as a warehouse under subsection (1), the occupier of that warehouse contravenes any condition or restriction imposed by the Comptroller under sub-section (2), (3) or (4), the occupier commits an offence, and is liable, on summary conviction, to a fine not exceeding twenty-five thousand dollars or equivalent to three times the value of the goods, whichever is greater.

(7) The Comptroller may at any time for reasonable cause suspend, revoke or vary the terms of an approval granted under sub-section (1).

(8) Where—

- (a) the Comptroller intends to revoke or not to renew any approval of a warehouse given under sub-section (1), he shall, not later

than three months before the date when—

- (i) the revocation is due to take effect;
or
 - (ii) the approval is due to expire, hereinafter referred to as the “date of cessation”, give notice of his intention in writing; and
- (b) such notice shall be deemed to have been served on all persons interested in any goods—
- (i) deposited in that warehouse; or
 - (ii) permitted by or under this Act to be so deposited in the warehouse,

between the date of the giving of the notice and the date of cessation, if addressed to the occupier of the warehouse, and left at the warehouse.

(9) If, after the date of cessation or such later date as the Comptroller may permit, uncleared goods remain in a place no longer approved under subsection (1), such goods—

- (a) may be taken by a proper officer to a customs controlled area; and
- (b) without prejudice to any other power or earlier sale provided by this Act may be sold, if they are not cleared within one month.

Maintenance of goods.

69.—(1) The occupier of a warehouse shall ensure that goods deposited in the warehouse shall be arranged, stowed and maintained in a manner which permits easy access to the goods.

(2) The Comptroller may give such directions respecting the arrangement, stowage or maintenance of goods as he thinks fit.

(3) An occupier who fails to arrange, stow or maintain goods in a warehouse in accordance with this section, commits an offence, and is liable on summary conviction to a fine not exceeding ten thousand dollars.

(4) The occupier of a warehouse shall, on request, produce to a customs officer, any goods deposited in the warehouse, which are not lawfully authorised to be deposited in the warehouse.

(5) An occupier who fails to produce the goods in accordance with sub-section (4) commits an offence and is liable on summary conviction, to a fine not exceeding twenty-five thousand dollars or equivalent to three times the value, whichever is greater.

Regulations.

70.—(1) The Minister may make regulations—

- (a) for the proper control and management of goods in a warehouse; or
- (b) allowing for private sector management and control of any warehouse.

71.—(1) No class of goods in Schedule I may be warehoused, except for those goods constructively warehoused for short-term storage. Goods not to be warehoused.

(2) The Minister may by Order or regulations amend or vary Schedule I, by deleting from, or adding to the list of goods, or class or description of goods specified in the Schedule.

(3) Unless the Comptroller may otherwise permit, and subject to such conditions and restrictions as he thinks fit to impose, no warehoused goods may remain warehoused for longer than two years, and any warehoused goods that remain warehoused after such time, may be sold or otherwise disposed of.

(5) The Minister may, by Order, prescribe any class or description of goods that may not remain warehoused for a period longer than two years and may, by Order, delete or add to the list of class or description of goods covered by this subsection.

(6) Goods that are warehoused contrary to this section are liable to forfeiture.

72.—(1) Goods permitted to be removed from a warehouse for transport to another warehouse may, at any time before such goods have been physically placed in the other warehouse— Re-entry.

- (a) be entered by their owner—
 - (i) for home use, if eligible; or
 - (ii) for exportation or use as stores; or
- (b) be removed for transport to another warehouse approved for warehousing of such goods,

and such goods shall then be dealt with as if they had been entered or withdrawn from the warehouse or warehoused and removed for transport.

(2) Where the owner, with the concurrence of the occupier, desires to re-warehouse goods according to the account taken at the time of the original entry of the goods into the warehouse, without re-examination, the re-examination may be dispensed with, where the proper officer is satisfied that—

- (a) the goods are still in the warehouse; and
- (b) there is no reason to suspect that there is any discrepancy in the quantity of the goods.

(3) Where goods have remained in a warehouse for a period in excess of 3 years, such goods shall not be re-warehoused under this section.

(4) Where goods are held in containers, no part of those goods shall be entered or removed under sub-section (1), unless that part consists of one or more complete containers.

Removal from
warehouse.

73.—(1) A proper officer may examine goods upon the removal of the goods from a warehouse for entry—

- (a) for home use;
- (b) for use as stores; or
- (c) for export.

(2) The occupier of a warehouse shall be liable for the duty due on any discrepancy not otherwise allowed by law—

- (a) discovered in the goods at the time of delivery for entry under sub-section (1); or
- (b) at any earlier time that a discrepancy is discovered.

(3) Subject to such allowances as are permitted by law, the duties due on any excess goods over the quantity declared on importation, and the quantity found at the time of removal, together with any necessary expenses and charges incurred in respect of the goods, shall be paid to the Comptroller, unless the excess is otherwise permitted by law.

(4) Any excess quantity of goods found on examination by the occupier of the warehouse, shall be re-warehoused in the name of the owner of the goods in the same manner as on first importation.

74.—(1) Where at the time, goods are being lawfully removed from the warehouse all or part of those goods are found to be missing, the occupier of the warehouse commits an offence, and is liable, on summary conviction, to a fine not exceeding twenty-five thousand dollars. Loss or deterioration of goods.

(2) Notwithstanding any other fine or liability to forfeiture incurred under this Act, where the occupier of a warehouse commits an offence under sub-section (1), the occupier of the warehouse shall, in addition to any restitution owed to the owner of the goods, pay to the Comptroller—

- (a) the duty that such goods would have borne, if they had been entered for home use on the date of the discovery of the deficiency; or

- (b) in the case of the goods not eligible for home use, an amount that is, in the opinion of the Comptroller, the value of the goods.

(3) Where—

- (a) goods have, without payment of duty, been lawfully removed from a warehouse for transport to another warehouse or to some other place; and
- (b) they failed to reach that other warehouse or place,

the transporter of the goods commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

(4) Notwithstanding any other fine or liability to forfeiture incurred under this Act, the owner of the goods who commits an offence under sub-section (3), shall pay to the Comptroller—

- (a) the duty that such goods would have borne, if they had been entered for home use on the date of their removal from the warehouse; or
- (b) in the case of goods not eligible for home use, an amount that is, in the opinion of the Comptroller, the value of the goods.

(5) Where—

- (a) warehoused goods are damaged, destroyed or unlawfully removed by or with the assistance of a customs officer; and

- (b) that officer is convicted of an offence in relation to that damage, destruction or removal, then except where the occupier of the warehouse or the owner of the goods was a party to the offence,

the Comptroller shall pay compensation for any loss caused by the damage, destruction or removal.

(6) Notwithstanding anything contained in any other provision of any customs enactment or the contrary, where the Comptroller is required to pay compensation—

- (a) the occupier of the warehouse or the owner of the goods is not liable to pay any duty on the goods; and
- (b) any sum paid by way of duty before the conviction of the customs officer, shall be repaid.

75.—(1) Unless otherwise permitted under this Act, goods may not be removed from warehouse until— Payment of duties.

- (a) all duty chargeable on those goods, and any charges in respect of the removal of the goods from warehouse have been paid; and
- (b) in the case of goods requiring entry and not yet entered, until entry of such goods has been made.

(2) The amount payable in duties in respect of the goods, shall be calculated in accordance with the value of those goods determined when they were first warehoused.

(3) The rates of duty chargeable on warehoused goods, shall be the rates which are in force with respect to the goods of that class or description at the time of the registration with the Customs Computerised System, the Comptroller or a proper officer, entry to remove the goods from the warehouse for consumption, export or home use.

(4) Where goods being spirits, wine or tobacco, are removed from the warehouse within two years of the date of entry into a warehouse, the calculation shall be in accordance with the quantity of the goods ascertained by weight, measure, or strength at the time of removal of the goods, unless the Comptroller determines that the difference between the account made at the time of entry into the warehouse, and the account made at the time of removal, is not explained by natural evaporation or other legitimate cause, in which case the calculation shall be in accordance with the account made at the time of entry into the warehouse.

(5) Where, within two years, warehoused goods have deteriorated or have been changed to such a degree that the Comptroller is satisfied that they have become worthless, he may allow such abatement of the duty chargeable on them as, in his opinion, the amount of the deterioration or damage bears to the original value of the goods.

(6) The abatement shall be allowed where the deterioration or change occurred within two years of the entry into warehouse, or such longer period as is otherwise allowed under this Act.

(7) Notwithstanding any other provision of this Act authorizing the removal of goods from a warehouse without

payment of duty, the Comptroller may permit warehoused goods entered for removal for any purpose other than home use, to be removed for that purpose, subject to such conditions and restrictions as he thinks fit, without payment of duty.

(8) A person who contravenes any condition or restriction imposed under sub-section (1) commits an offence and shall be liable on summary conviction to a fine not exceeding ten thousand dollars, and the goods shall be liable for forfeiture.

PART IX

DUTIES, REFUNDS AND DRAWBACK

76.—(1) The Minister may, by Order—

Power to
impose duties.

- (a) revoke, reduce, or increase or alter any import or export customs duties;
- (b) make additions to, or deletions from, the list of goods exempted from customs duties; or
- (c) impose new import or export customs duties.

(2) An Order made under sub-section (1) shall be submitted to Parliament, and Parliament may by negative resolution—

- (a) impose import and export duties upon any goods imported into or exported from Grenada; and

- (b) revoke, reduce, increase or alter any such duties chargeable; or
- (c) make additions to, or deletions from, the list of goods exempted from customs duties.

(3) Without prejudice to sub-section (1), the Minister may, by Order published in the *Gazette*, exempt imported or exported goods from payment of custom duties.

(4) Exemptions under sub-sections (2) and (3) must be reported annually to the Public Accounts Committee.

(5) All import or export customs duties and all exemptions from customs duties shall continue in force until revoked, reduced or, increased or altered in the manner provided under this Act, or in regulations.

(6) The duties or exemptions imposed under sub-section (1), shall apply from the date of publication of the Order in the *Gazette*, until the expiration of the Order, but in no case may they apply for a period in excess of three months.

(7) Goods may be entered into Grenada without payment of customs duties where—

- (a) the Comptroller permits goods to be imported into Grenada for temporary use, for such periods as the Comptroller may see fit to allow;
- (b) goods permitted to be warehoused on importation into Grenada are warehoused;

- (c) the Comptroller permits goods entered for transshipment or transit to be removed for that purpose;
- (d) goods made in Grenada are exported and re-imported into Grenada; or
- (e) goods previously entered for home use in Grenada are exported to another country and then are re-imported into Grenada, and it is shown to the satisfaction of the Comptroller that—
 - (i) no duty was chargeable on those goods on any previous importation into Grenada, or if any duty was chargeable, it had been paid;
 - (ii) no drawback has been paid or duty refunded on the exportation of the goods, or any drawback paid or duty refunded has been repaid; and
 - (iii) the goods have not undergone any process outside Grenada since their exportation.

(8) Where goods are exported for repairs and re-imported, upon re-importation, duty will be payable on the value of the repair made abroad if the goods have been previously entered for home use or goods produced in Grenada, and any other cost associated with the repair including, but not limited to freight.

(9) Where, under any provision of any customs enactment, goods are subject to a condition or restriction exempting the goods from the payment of duty, and the condition or restriction is contravened, the duty becomes payable by the person who, but for that exemption, would have had to pay the duty, and the goods in respect of which the exemption was granted, becomes liable to forfeiture.

(10) Goods exempted from duty by virtue of any provision of any customs enactment shall, upon a demand made by a customs officer, be produced or otherwise accounted for to the officer.

(11) person who fails to produce or account for goods referred to in sub-section (10), commits an offence, and is liable, on summary conviction, to a fine not exceeding fifty thousand dollars or equivalent to three times the value of the goods, whichever is greater.

(12) If the goods referred to in sub-section (10) are subsequently found, they are liable to forfeiture.

Rate of duty.

77.—(1) Unless otherwise provided under this Act, duty shall be payable on a class of goods or description of goods, at the rate in force with respect to such goods—

- (a) when an entry for home use is submitted, whether in electronic or other form, when the entry is registered with the Customs Computerised System, the Comptroller or a proper officer in respect of goods imported in Grenada;
- (b) when an export entry in respect of the goods is submitted, whether in electronic or other form,

when the entry is registered with the Customs Computerised System, the Comptroller or a proper officer in respect of goods to be exported from Grenada;

- (c) where goods are removed from a conveyance, vessel or aircraft under any bond or other security, at the time of the delivery of the goods;
- (d) where goods are removed from a warehouse for home use, at the time of registration with the Customs Computerised System, the Comptroller or a proper officer the entry to remove the goods from the warehouse;
- (e) where goods are exported, at the time of release for export; and
- (f) in any other case, at the time of the importation or exportation of the goods.

(2) A person making an entry of goods shall, upon making the entry, specify the classification of the goods, specify the appropriate customs procedure code, and, in the case of manual transactions, specify the rate of duty applicable to the goods.

78.—(1) The customs valuation of goods shall be Valuation. determined in accordance with Schedule II.

(2) The person making an entry of goods shall, upon making entry, specify the customs value of the goods, determined in accordance with Schedule II.

(3) The currency exchange rate as provided by the Eastern Caribbean Central Bank in effect on the date of registration of the entry with the Customs Computerised System, the Comptroller or a proper officer will apply in determining the value of goods, unless otherwise provided for by regulations.

Assessment and
re-assessment of
duty.

79.—(1) Unless otherwise provided for in this Act, an entry with respect to the importation or exportation of goods, made under this Act, will be deemed by the Comptroller, to be an assessment by the importer or exporter in relation to—

- (a) the value of the goods;
- (b) the duty rate applicable to those goods; or
- (c) any other determinations required before importation or exportation.

(2) Where the Comptroller has reasonable cause to suspect that duty or other charges is payable on goods for which no entry has been submitted, the Comptroller may determine the duty due at such amount as the Comptroller thinks proper, based on the provisions of this Act.

(3) The importer or exporter shall be advised of any assessment under subsection (2) by notice in writing.

(4) The Comptroller may make any re-assessment to an assessment of duty due that the Comptroller thinks necessary, to ensure the correctness of the assessment notwithstanding that—

- (a) the goods to which the duty relates are no longer subject to customs control; or

(b) the duty originally assessed has been paid.

(5) Where—

- (a) a re-assessment is made under this section; and
- (b) such re-assessment has the effect of imposing a new liability or altering an existing liability,

the Comptroller shall give to the importer or exporter, written notice to that effect.

(6) The Comptroller is not entitled to make amendments to a duty assessment after the expiration of five years from the date on which the original assessment was made.

(7) Where the amount of duty demanded or any decision of the Comptroller under this Act is disputed by an importer or exporter, any amount in dispute shall be paid by the importer or exporter under protest and the importer or exporter may, within thirty days from the date of payment file a written protest in respect of that entry requesting that the Comptroller consider the disputed decision, and an importer who is dissatisfied with a decision of the Comptroller on reconsideration has a right of appeal against that decision to the Customs Appeal Commission within twenty-one days.

(8) A person who makes an assessment pursuant to sub-section (1) and (2) shall—

- (a) keep the documents, records and information in respect of that entry, in such manner and for such period as is required under this Act; and

- (b) when required by a customs officer, produce those documents, records and information for the purpose of establishing the accuracy of the assessment.

(9) A person who fails to produce any document, record or information required by a customs officer under sub-section (8), commits an offence, and is liable, on summary conviction on indictment, to a fine not exceeding one hundred thousand dollars.

Payment of duty
on imports.

80.—(1) The duty, taxes and any other charges on imported goods constitutes a debt due to the State on the importation of the goods and shall be based on the Common External Tariff Rules, and any other legislation providing for the imposition of duties, taxes or charges.

(2) The duty payable under sub-section (1) is—

- (a) owed by the importer of the goods, and, if more than one, jointly and severally, by all the importers of the goods; and
- (b) recoverable by action at the suit of the Comptroller on behalf of the State.

(3) The right to recover duty as a debt due to the State is not affected by the fact that—

- (a) the goods have ceased to be subject to customs control;

- (b) a bond or other security has been given for the payment of duty; or
- (c) a proper assessment of duty has not been made under this Act.

(4) Unless expressly permitted by a customs enactment, imported goods shall not be delivered or removed on importation, until the importer has paid to Customs, the duty, tax, charge or fee chargeable on those goods, and that duty, tax, charge or fee shall, in the case of goods in respect of which an entry is required, be paid when the entry is registered with the Customs Computerised System, the Comptroller or a proper officer.

(5) The Comptroller may detain subsequent shipments of an importer who has not paid a debt due under this Act.

(6) The Comptroller may, where appropriate security is provided in accordance with the regulations, approve any person or any class of persons, as persons who may defer the payment of duty due under this section.

(7) Where any duty, the payment of which has been deferred to in accordance with sub-section (6), remains unpaid by the due date for payment, interest shall be imposed at a rate prescribed by regulations, calculated from the date the payment was due to the date the payment is made.

(8) The obligation to pay and the right to receive and recover duty under this Act are not suspended by the commencement of any appeal or other legal proceedings.

(9) The Minister may make regulations governing the re-importation of goods.

Payment of duty
on exports.

81.—(1) The duty on exported goods constitutes, immediately on the registration of an entry with the Customs Computerised System, the Comptroller or a proper officer, a debt due to the State.

(2) The duty payable under sub-section (1) is—

- (a) owed by the exporter of the goods, and, if more than one, jointly and severally by all of them; and
- (b) recoverable by action at the suit of the Comptroller on behalf of the State.

(3) The right to recover duty as a debt due to the State is not affected by the fact that—

- (a) the goods have ceased to be subject to customs control;
- (b) a bond or other security has been given for the payment of duty; or
- (c) a proper assessment of duty has not been made under this Act.

(4) Unless expressly permitted by any customs enactment, exported goods shall not be delivered or removed on exportation, until the exporter has paid the duty chargeable on those goods and that duty shall, in the case of goods in respect of which an entry is required, be paid when an entry is registered with the Customs Computerised System, the Comptroller or a proper officer.

(5) The Comptroller may where appropriate security is provided in accordance with the regulations, approve any person or any class of persons who may defer the payment of duty under this section.

(6) Where any duty, the payment of which has been deferred in accordance with sub-section (5), remains unpaid by the due date for payment, interest shall be imposed at a rate prescribed by regulations, calculated from the date the payment was due to the date the payment is made.

(7) The obligation to pay and the right to receive and recover duty under this Act are not suspended by any appeal or other legal proceedings.

82.—(1) Unless otherwise specified in this Act, the due date for the payment of duty assessed in accordance with section 79, shall be the date that is 7 working days after the date on which written notice of the assessment under section 79 (2) is given. Date for payment of duties.

(2) Where all or part of any duty remains unpaid after the due date, interest shall be imposed at a rate prescribed by regulations, calculated from the date the payment was due to the date the payment is made.

83.—(1) Where an appeal or other proceedings results in a re-assessment that insufficient duties were paid, the additional amount due must be paid to the Comptroller within 30 working days of the re-assessment. Payment of additional duties.

(2) Where the additional duties specified in sub-section (1) are not paid within thirty days, the amount of duty which is unpaid shall bear interest, and will apply at a rate prescribed

by regulations, calculated from the date the payment was due to the date the payment is made.

(3) Any obligation on the part of a person to pay additional duties under sub-section (1) shall be suspended, pending the outcome of any appeal filed by the Comptroller under this Act or any other Act against the decision requiring the additional duties.

Refund.

84.—(1) Where—

- (a) an amount is paid as duty, tax, charge or fee; and
- (b) such amount is found to be in excess of the duty, tax, charge or fee payable,

the Comptroller shall refund the excess, unless all or a portion of the refund is set off against other debts.

(2) Where an appeal or other proceedings result in a re-assessment in an amount less than the amount already paid in duties, or given as security for payment—

- (a) the Comptroller shall refund the excess duties paid to the applicant within 30 working days of the reassessment; or
- (b) the security given by the applicant for payment of the duties in excess of the amount properly payable shall be released.

(3) Where the refund required by sub-section (1) or (2) is not paid within thirty days, interest will apply at a rate

bed by regulations, calculated from the date the
nt was due to the date the payment is made. prescrib
paymen

4) Any obligation on the part of the Comptroller to (4
duties under sub-section (1), shall be suspended, refund
g the outcome of any appeal filed by the Comptroller pending
his Act or any other Act against the decision requiring under th
y to be refunded. the duty

—(1) Where the Comptroller is satisfied that goods Go **85.—**
een temporarily imported, the Comptroller may— ten **have be**
imp

a) require security of a sum equal to the amount of (a
duty payable on the goods, had they been entered
for home use; and

b) in such cases as are approved on receipt of (b
security, the Comptroller may release the goods
from customs control without payment of duty.

2) Subject to any regulations that may be prescribed, (2
son required to give the security under sub-section (1), the pers
e released from the conditions of the security, if, within shall be
ths from the date of the entry of the goods, or within 6 mont
onger period as the Comptroller may allow in any such lo
llar case, the Comptroller is satisfied that the goods particul
een— have be

(a) exported;

(b) packed for export into a bulk cargo

- (d) dealt with in such manner as the Comptroller may allow.

(3) Subject to such conditions as the Comptroller may impose, duty is not payable on goods temporarily imported in accordance with any treaty, agreement, or arrangement concluded by the Government of Grenada.

(4) If, at the expiration of the period prescribed by sub-section (2), the goods have not been dealt with in accordance with that subsection—

- (a) any sum secured by way of deposit of money shall be retained by the State; or
- (b) any sum otherwise secured, shall be paid to the State by the importer within two weeks after the expiration of that period, or such longer period as the Comptroller may allow, and on such payment, the security shall be released.

(5) Except as the Minister may permit, this section does not apply to duties imposed under the Dumping and Countervailing Duties Act.

(6) This section does not apply to any goods that are declared in the Common External Tariff, to be goods to which rules of the kind set forth in this section do not apply.

Claims for drawback.

86.—(1) A claim for drawback shall be made in such form and manner and contain such particulars as the Comptroller may direct.

(2) No drawback is payable—

- (a) unless it is shown to the satisfaction of the Comptroller, that all duty due on the goods in respect of which the claim is made, has been paid and not otherwise drawn back;
- (b) until the person making the claim has furnished the Comptroller with such information, and produced to the Comptroller, any books of account or other documents relating to the goods as the Comptroller may demand; and
- (c) until the goods that are the subject of the claim have been exported.

(3) The Minister may, by Order, prescribe any class or description of goods in respect of which no drawback can be claimed.

87.—(1) Subject to this section, drawbacks of duty may be allowed on goods, at such amounts and subject to such conditions as may be prescribed. Drawback of duty on certain goods.

(2) Where—

- (a) the Comptroller is satisfied that goods have been shipped for export;
- (b) goods have been packed for export into a bulk cargo container in a customs controlled area, and the container has been secured to the satisfaction of the Comptroller; or
- (c) goods have been entered into an export warehouse, and the Comptroller is satisfied that they will be exported,

the Comptroller may, for the purposes of this section, if he thinks fit, treat the goods as having been exported.

(3) Where drawback has been allowed or paid on any goods treated as exported, those goods shall not, without the permission of the Comptroller, be unshipped or re-landed or unpacked before export.

(4) Where drawback has been allowed or paid on goods treated as exported and those goods are unshipped, re-landed or unpacked without the permission of the Comptroller, the amount of drawback allowed in respect of those goods shall, immediately on their unshipment or relanding or unpacking, constitute a debt due to the State and the debt shall immediately be payable by the owner or agent of the goods at the time of their unshipment or relanding or unpacking.

(5) A civil debt under sub-section (4) is recoverable by legal action brought on behalf of the State.

(6) Where under this section drawback is allowed to any person, the Comptroller may, in his discretion, apply the whole or any part of the sum allowed towards the payment of any duty that is owed by that person.

(7) Except as the Minister may permit, this section does not apply to duties dealing with Dumping and Countervailing Duties.

Extent of
drawback.

88.—(1) Subject to this section, where goods are entered—

- (a) for shipment for use as stores; or
- (b) for warehousing for subsequent exportation, or shipment for use as stores,

drawback may be claimed in respect of any duty paid at the time of the original importation of those goods into Grenada.

(2) Subject to any regulation made under this Act, no drawback may be claimed in respect of—

- (a) the duties and taxes paid at the time of original importation of less than twenty five dollars;
- (b) goods that were imported into Grenada more than 12 months before the date of the claim for drawback;
- (c) goods not in the packages in which they were originally imported into Grenada, or in the case of bulk goods, where the bulk has been broken; or
- (d) goods that have been tampered with or used.

(3) Where imported goods are shipped in error, are defective or are unfit or unsafe for use, drawback may be claimed, provided that the goods are exported or destroyed under Customs supervision.

89.—(1) Where it is proved to the satisfaction of the Comptroller, that after being shipped for exportation by a conveyance or for use as stores, goods have been—

Drawback on goods destroyed or damaged after shipment.

- (a) destroyed by reason of accident on board the exporting conveyance, drawback on such goods is payable as if they had been exported to their destination; or

- (b) materially damaged by reason of accident on board the exporting conveyance, such goods may be brought back into Grenada and reloaded or unloaded—
 - (i) with the consent of the Comptroller; and
 - (ii) in accordance with such conditions and restrictions as the Comptroller may impose.

(2) Where any goods brought into Grenada under subsection (1) (b), are re-entered for home use, such goods are chargeable with the duty normally chargeable on the importation of undamaged goods.

Offences in relation to drawback.

90.—(1) A person who obtains or attempts to obtain, or assists another person to obtain, or attempts to obtain drawback for which there is no lawful entitlement, commits an offence, and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars or equivalent to three times the amount attempted to be obtained, whichever is greater.

(2) A person who, with intent to defraud, obtains or attempts to obtain, or assists another person to obtain or attempts to obtain drawback for which there is no lawful entitlement, commits an offence, and is liable, on summary conviction, to a fine not exceeding one hundred thousand dollars or equivalent to three times the amount obtained or attempted to be obtained, whichever is greater, or to a term of imprisonment not exceeding two years.

(3) The goods in respect of which the offences under this section are committed are liable to forfeiture.

PART X**RECORDKEEPING**

91.—(1) A relevant person concerned with the coasting trade and any other person who conducts business under any Customs enactment upon approval, shall keep or cause to be kept in Grenada, whether in electronic form or otherwise, all documents, books, records, and any other information relating to the transaction of such business under the Customs Act, in the form and manner required by the Comptroller of Customs, for a period of time not less than five years from the date of such transaction. Keeping of records.

(2) A relevant person who conceals, destroys, alters, causes to be sent outside of Grenada or fails to keep any documents, books, records or other information required under this section, commits an offence, and is liable, on summary conviction, to a fine not exceeding two hundred and fifty thousand dollars.

(3) For the purposes of this section “relevant person” means—

- (a) any importer, exporter or carrier of goods;
- (b) any occupier of a warehouse;
- (c) any operator of a customs controlled area;
- (d) any airport manager or port manager;
- (e) any ship agent or other agent to whom this Act applies;
- (f) any person concerned with coasting trade;
or

- (g) any broker or other person who conducts business under this Act.

Regulations.

92. The Minister may make regulations, respecting the form and manner in which documents, books, records and any other information required to be kept under this Act must be kept.

Access to records.

93.—(1) A relevant person to whom section 91 (1) above applies shall, when required by a proper officer—

- (a) make available and give access to the documents, books, records or any other information that the person is required to keep under section 91 (1);
- (b) give access to the documents, books, records, or any other information in the form and manner prescribed;
- (c) ensure that the proper officer has access to the documents, books, records, or other information at all reasonable times;
- (d) answer any question relevant to matters arising under this Act asked by a proper officer in respect of those documents, books, records, or other information;
- (e) provide working space and personnel to assist the officer in the performance of his duties; and
- (f) provide copies of the records to the officer if so required.

(2) Where information is recorded or stored by means of an electronic or other device, the person referred to in sub-section (1), or the agent of that person, shall, at the request of a proper officer, operate the device, or cause it to be operated, in order to make the information available to the proper officer.

(3) A person who fails, without reasonable cause, to give a proper officer access to information required under this section in the form and manner prescribed, commits an offence, and is liable, on summary conviction, to a fine not exceeding two hundred and fifty thousand dollars.

94.—(1) The Comptroller may take possession of, and retain, any document, book, record or other information presented in connection with any entry or required to be produced under this Act. Retention of records.

(2) Where the Comptroller takes possession of a document, book, record or other information under sub-section (1), the Comptroller shall, at the request of the person otherwise entitled to the document, book, record or other information, provide that person with a copy of the document certified under the seal of Customs as a true copy.

(3) Where a copy of a document, book, record or other information is certified under sub-section (2), the certified copy is admissible as evidence in all courts or tribunals, as if it were the original document, book, record or other information.

(4) Notwithstanding sub-section (2), where the Comptroller requires original invoices or certificates of origin, or both, to be produced for goods imported or exported, he may—

-
- (a) require such invoices or certificates of origin, or both, to be submitted in duplicate, and may retain the duplicates; or
 - (b) retain the originals, if such invoices or certificates of origin, or both, are not submitted in duplicate.

Recordkeeping
for exempted
articles.

95.—(1) A person who—

- (a) imports into Grenada from an area outside the Common Market; or
- (b) purchases within the Common Market,

an article in respect of which it has been granted exemption from Customs duty by virtue of the Conditional Duty Exemptions, shall comply with the requirements of this section in respect of the article.

(2) The person shall keep a record of the articles referred to in subsection (1) in such form and containing such particulars as may be required by the Comptroller.

(3) The person shall cause the articles referred to in sub-section (1) to be marked with such mark and such manner as may be required by the Comptroller.

(4) The person shall permit the Comptroller or any person authorised by him at all reasonable times to—

- (a) inspect the records referred to in subsection (2);

- (b) have access to any factory or warehouse under its control for the purpose of examining any article referred to in sub-section (1) which the Comptroller has reason to believe to be in the factory or warehouse, and of verifying the accuracy of the particulars of the records referred to in sub-section (2).

(5) A person who—

- (a) fails to produce proper records referred to in subsection (2);
- (b) is unable to prove compliance in use of an article referred to in sub-section (1); or
- (c) otherwise contravenes any of the provisions of this section,

commits an offence and is liable on summary conviction to a fine equal to twice the amount of import duties and taxes waived in respect of the article in question.

PART XI

PROHIBITED AND RESTRICTED GOODS

96.—(1) No person shall import into Grenada—

- (a) any goods listed in Part I of Schedule III;
- (b) any goods listed in Part II of Schedule III, except in accordance with the conditions and restrictions prescribed in that Part.

Prohibited and
restricted
imports.

(2) The Minister may, by Order, amend Schedule III in respect of imported goods.

(3) A prohibition or restriction imposed by Order made under sub-section (2) may—

- (a) be general;
- (b) be limited to the importation of goods from a specified place, or by or from a specified person or class of persons; or
- (c) whether general or limited, be absolute or conditional.

(4) All Orders in force at the commencement of this Act prohibiting or restricting the importation of goods into Grenada, shall continue in force as if they were made under this Act, unless revoked.

Prohibited and
restricted
exports.

97.—(1) No person shall export from Grenada any goods specified in—

- (a) Part III of Schedule III;
- (b) Part IV of Schedule III, except in accordance with the conditions and restrictions imposed in that Part.

(2) The Minister may, by Order, amend Schedule III in respect of goods.

(3) A prohibition or restriction imposed by Order made under subsection (2) may—

- (a) be general;
- (b) be limited to the exportation of goods from a specified place or by or from a specified person or class of persons; or
- (c) whether general or limited, be absolute or conditional.

(4) Unless otherwise specified in the Order, an Order made under this section prohibiting or restricting the exportation of goods, extends to and applies to the shipment of the goods for use as stores by vessels and aircraft.

(5) All orders in force at the commencement of this Act prohibiting or restricting the exportation of goods from Grenada shall continue in force as if they were made under this Act, unless revoked.

98.—(1) Where the importation or exportation of goods of any class or description is restricted under this Act or any other Act, unless imported or exported under the authority of a licence or permit, the Comptroller may refuse to enter those goods or to clear such goods for export, unless the importer or exporter produces a licence or permit in respect of the goods.

Production of
licence or
permit for
restricted
goods.

(2) A person who—

- (a) imports or exports restricted goods without the required licence or permit;

- (b) fails to comply with a term or condition of a licence or permit; or
- (c) is knowingly concerned in a breach of this subsection,

commits an offence, and the goods may be liable to forfeiture.

Other Orders.

99. The Minister may, by Order—

- (a) prohibit or restrict the exportation or carriage coastwise of any class or description of goods; and
- (b) prohibit or restrict the importation, exportation or carriage coastwise of any class or description of goods, to or from any specified place in Grenada.

Goods imported in transit, transshipment or as stores.

100.—(1) Subject to sub-section (2), goods imported in transit or in transshipment, or as the *bona fide* stores of any aircraft or vessel, shall not be treated as prohibited or restricted goods.

(2) Sub-section (1) shall not apply where goods referred to in that subsection are expressly prohibited from, or restricted from being imported in transit or transshipment, or as stores, in any Order made under any customs enactment or any Act prohibiting or restricting the importation or exportation of such goods.

(3) Goods imported in accordance with sub-section (1), shall be exported within such time as the Comptroller may allow.

101.—(1) A person who—

Penalty for prohibited goods.

- (a) imports into Grenada or unships or lands in Grenada, goods, the importation of which is prohibited under this Part;
- (b) exports, or transports with intent to export, goods from Grenada, the exportation of which is prohibited under this Part;
- (c) is knowingly concerned in any importation, exportation, transportation, shipment, unshipment or landing of goods to which paragraph (a) or (b) applies;
- (d) without lawful justification or excuse, removes from a customs controlled area, imported goods, the importation of which is prohibited under this Part;
- (e) is knowingly concerned with or conspires in the removal from a customs controlled area of goods, the importation of which is prohibited under this Part,

commits an offence, and is liable, on summary conviction, to a fine not exceeding twenty five-thousand dollars.

(2) It is not a defence in a prosecution for an offence referred to in sub-section (1) (a), (b) or (d), that the defendant had no knowledge or no reasonable cause to believe, that the goods in respect of which the offence was committed were prohibited imports or prohibited exports.

PART XII

COMMUNITY ORIGIN GOODS

Definitions.

102. In this Part—

“community” means the Caribbean Community established by Article 2 of the Revised Treaty, and includes the C.S.M.E. established by the Revised Treaty;

“Community origin” has the meaning assigned to it in section 103 of the Revised Treaty;

“C.S.M.E.” means, the regime established by the Revised Treaty, replacing Chapters three through seven of the Annex to the Treaty establishing the Caribbean Community and Common Market, signed at Chaguaramas on the 4th July, 1973;

“export duties” means any duties or charges with equivalent effect imposed on or in connection with the export of goods;

“Less Developed Country” means the Member States regarded as such, in accordance with Article 4 of the Revised Treaty;

“materials” includes raw materials, intermediate products, parts and components used in the process of production, repair, renovation or improvement of goods;

“Member State” has the meaning assigned to it in the Revised Treaty;

“More Developed Country” means a Member State regarded as such, in accordance with Article 4 of the Revised Treaty;

“remission” includes exemption for materials brought into free ports and other places that have duty-free customs privileges;

“Revised Treaty” refers to the Treaty of Chaguaramas establishing the Caribbean Community, including the CARICOM Single Market and Economy, signed at Nassau, the Bahamas, on July 5, 2001; and

“Rules of Origin” means the Rules regarding Community Origin set out in part (b) of Schedule I to the Revised Treaty.

103.—(1) Subject to sub-section (2), customs duty otherwise imposed on goods of any description, shall not apply to goods produced in a Member State.

Import duty on goods of Community origin.

(2) Sub-section (1) does not—

- (a) prohibit the imposition of non-discriminatory internal charges of any type on any goods, including goods produced in a Member State; or
- (b) apply to fees and similar charges commensurate with the cost of services rendered applied to any goods, including goods produced in a Member State.

(3) Where the Minister is satisfied that, pursuant to the provisions of the Revised Treaty, a Member State has suspended the operation of the preferential treatment of goods of Community origin in respect of any class of goods exported to that Member State from Grenada—

- (a) the Minister may issue a notification in the *Gazette* to that effect; and
- (b) thereafter, notwithstanding sub-section (1), any goods of that class exported from that Member State, if entered for use in Grenada during the continuance in force of the notification, shall be liable to import duty and tax.

Export duty on goods of Community origin.

104.—(1) Export duties shall not apply to goods of Community origin traded within the Community.

(2) Where goods destined for export to a non-Member State are exported through a Member State, export duties applicable to goods exported to non-Member States may be applied to such goods.

(3) The Comptroller is authorised to take any necessary action to prevent the evasion of the payment of export duties.

Drawback.

105.—(1) Notwithstanding section 103, goods of Community origin which benefit from drawback when exported from another Member State may be treated upon importation into Grenada, as if such goods are not of Community origin for the purpose of this Part.

(2) If goods that on importation were treated as Community origin goods, and after importation, drawback is allowed, then, notwithstanding section 103, the full amount of duty that would have been chargeable if the goods had not been treated as Community origin goods, becomes payable upon demand being made by the Comptroller.

(3) The duty which would have been chargeable on the goods constitutes a civil debt owed to the State, immediately on demand being made by the Comptroller.

(4) The debt referred to in sub-section (3) is recoverable by action at the suit of the Comptroller on behalf of the State.

106.—(1) Nothing in Part XI authorizes the application of any quantitative restriction on— Quantitative restrictions.

- (a) the importation of goods that are of Community origin; or
- (b) exports to a Member State.

(2) Nothing in subsection (1), prohibits the taking of measures necessary to prevent evasion of any prohibition or restriction under Part XI.

107.—(1) Imported goods shall be treated as being of Community origin where the goods are— Determination of Community origin.

- (a) wholly produced within the Community; or
- (b) produced within the Community wholly, or partly, from materials imported from a non-Member State, or from materials of undetermined

origin, by a process which results in a substantial transformation characterized—

- (i) by the goods being classified in a tariff heading, different from that in which any of the material is classified; or
- (ii) in the case of the goods set out in Schedule I of the Treaty establishing the Caribbean Community, only satisfying the conditions specified for those goods.

(2) Subject to sub-section (3), goods of Community origin exported from Grenada to another Member State for repair, renovation or improvement shall, on the return of the goods to Grenada, be treated as goods that are of Community origin.

(3) Sub-section (2) applies only where the goods are returned directly to Grenada, and the value of materials imported from a non-Member State or of undetermined origin used in the process of repair, renovation or improvement does not exceed—

- (a) in the case of goods undergoing the process of repair, renovation or improvement in a More Developed Country, 65 percent of the cost of repair, renovation or improvement;
- (b) in the case of goods undergoing the process of repair, renovation or improvement in a Less Developed Country, 80 percent of the cost of repair, renovation or improvement.

(4) Where the importer fails to furnish proof to the satisfaction of the Comptroller, that goods are of Community origin, the determination of whether goods are of a Community origin for the purpose of this Part, may be made by the Comptroller, without regard to any proof or statements made by the importer.

(5) A person who furnishes, or causes to be furnished, any document that is untrue in a material particular in support of a claim in Grenada, that goods are of Community origin, and therefore eligible for preferential treatment, commits an offence, and is liable, on summary conviction, to a fine not exceeding twenty-five thousand dollars or equivalent to three times the value of the goods, whichever is greater, and such goods shall be liable to forfeiture.

108.—(1) The Rules of Origin set out in the Common External Tariff, shall be applied to goods that do not qualify for Community origin treatment. Common External Tariff.

(2) The Minister—

- (a) shall be the competent authority for the administration of the Common External Tariff; and
- (b) may, in keeping with relevant determinations of COTED, alter or suspend the Common External Tariff with respect to any item by Order.

109. The Comptroller shall provide to Member States, administrative assistance in customs matters in accordance with agreements between the parties. Cooperation in customs services.

PART XIII**POWERS**

Patrol and
surveillance.

110.—(1) Subject to sub-section (2), a proper officer may, for the purposes of the detection of offences committed against this Act or any other customs enactment at any time and in such manner as the officer considers appropriate—

- (a) patrol upon and pass freely along and over any part of Grenada, whether or not that part is private property subject to sub-section (2); and
- (b) may remain in such part for the purpose of carrying out investigations or surveillance.

(2) This section does not authorize the entry into a dwelling house without the permission of the owner or occupant.

(3) A proper officer who carries out any act referred to in subsection (1), is not liable to any criminal or civil proceedings for carrying out such act in good faith.

Power to land or
moor.

111.—(1) A proper officer in command or in charge of any vessel or aircraft engaged in the prevention of smuggling may—

- (a) anchor, moor or berth that vessel;
- (b) land that aircraft; or
- (c) haul the vessel ashore, at any place in Grenada.

(2) A proper officer who carries out any act referred to in sub-section (1), is not liable to any criminal or civil proceedings for carrying out such act in good faith.

112.—(1) At any time while a conveyance is within the territorial waters of Grenada or within the land borders of Grenada, a proper officer may— Power to board conveyance.

- (a) require that conveyance to stop;
- (b) board it, and remain on board the conveyance; or
- (c) search any part of the conveyance.

(2) A proper officer on board any conveyance in accordance with sub-section (1), may—

- (a) cause goods to be marked before they are unloaded from that conveyance;
- (b) examine goods in the course of their being unloaded;
- (c) lock up, seal, mark or otherwise secure goods or their containers, carried in that conveyance;
- (d) break open any area or container that is locked and to which no keys are provided;
- (e) require any document or book which should be kept and maintained on board;
- (f) require answers to the officer's questions relating to the conveyance, its cargo, stores, baggage, crew, passengers, voyage or flight.

- (3) A person who—
- (a) prevents a proper officer from performing any acts referred to in sub-section (2);
 - (b) obstructs a proper officer in the exercise of any duties under sub-section (2); or
 - (c) refuses to produce any documents requested, or to answer any questions asked under that subsection,

commits an offence, and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars.

(4) Any uncustomed goods found concealed on board a conveyance within the territorial waters of Grenada or borders of Grenada are liable to forfeiture.

(5) Where the master, commander or driver or agent of a conveyance refuses to stop or permit a proper officer to board, when required to do so under sub-section (1), the master, commander, driver or agent of that conveyance, commits an offence, and is liable on summary conviction to a fine not exceeding one hundred thousand dollars.

(6) Where—

- (a) the master of a vessel or commander of an aircraft or driver of a vehicle, refuses to stop the vessel, aircraft or vehicle when required to do so under sub-section (1), and chase is given; and

- (b) the identity of the master, commander or driver cannot be ascertained then,

each person who is a member of the crew of the vessel or aircraft or occupant of the vehicle during the chase, commits an offence, and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars.

113.—(1) The Comptroller may station a proper officer on board a vessel at any time while it is within Grenada. Power to station officer on vessel.

(2) Where a proper officer is stationed under sub-section (1) on board a vessel, the master of the vessel shall provide—

- (a) proper and sufficient food and water, together with reasonable accommodation for the proper officer; and
- (b) such means of safe access to and egress from that vessel as required by the officer.

(3) The master of a vessel on which a proper officer is stationed under sub-section (1), who neglects or refuses to provide food, water and safe means of access to and egress from the vessel under sub-section (2), commits an offence, and is liable, on summary conviction, to a fine not exceeding ten thousand dollars.

114.—(1) Without prejudice to any other power contained in this Act, a customs officer shall have a right of access to, and a power of search of— Right of access.

- (a) any part of a customs controlled area; and

- (b) any vehicle or goods found at a customs controlled area.

(2) The power of search provided by sub-section (1), includes the power to break into or open any locked building, vehicle, place or container which is required to be searched.

Searching of conveyance.

115.—(1) A proper officer may search a conveyance which—

- (a) has arrived into Grenada;
- (b) is departing from Grenada to a place outside Grenada, and at all times while the conveyance is travelling within Grenada en route to a point outside Grenada;
- (c) not being a conveyance to which paragraph (a) or (b) applies, is carrying any international cargo, while the conveyance remains within Grenada; or
- (d) not being a conveyance to which paragraph (a), (b), or (c) applies, that is within Grenada, and that officer has reasonable cause to suspect, while the conveyance is within Grenada—
 - (i) is carrying dutiable, uncustomed, prohibited, restricted or forfeited goods; or
 - (ii) has been, is being, or is about to be involved in the commission of an offence against this Act.

(2) In the exercise of the power of search conferred by sub-section (1) (a), a proper officer may, using such force as in the circumstances is reasonable, enter every part of the conveyance and open any package, locker or other place and may examine all goods found in the conveyance.

(3) A person who prevents or distracts a proper officer from exercising a power under this section, commits an offence, and is liable, on summary conviction to a fine not exceeding twenty-five thousand dollars.

116.—(1) Subject to section 159, where a proper officer has reasonable grounds to believe, that goods that are not in compliance with any customs enactment are being kept at or concealed in any building or other place, he may, after being authorised to do so by the Comptroller—

Power to search premises.

- (a) enter that building or place at any time, and search for, seize, detain or remove anything that appears to him to be liable to forfeiture;
- (b) so far as is reasonably necessary for the purpose of the entry, search, detention or removal, break open any door, window, container, lock, seal, shutter, impediment or obstruction; and
- (c) search for and remove any invoice, bill of lading, books, ledgers, customs declaration, correspondence and, or, any other documents relating to the importation and or exportation of goods.

(2) Where in the case of any entry, search, seizure, detention or removal, damage is caused and goods liable to

forfeiture are found, the owner of the damaged building or damaged goods is not entitled to recover from the Comptroller, the costs of repairing that damage.

(3) A person who prevents or obstructs an entry or search under this section, commits an offence, and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars and any goods found are liable to forfeiture.

(4) Notwithstanding subsection (1), an officer shall not enter a private dwelling except with the consent of the occupant or owner of that dwelling, or pursuant to a warrant issued under this Act.

Power to search
vehicles.

117.—(1) A customs officer who has reasonable grounds to believe that—

- (a) there are, in or on any vehicle that is within a customs controlled area, any dutiable, uncustomed, prohibited, or restricted goods; or
- (b) there are, in or on any vehicle, outside a customs controlled area, any goods that have been unlawfully imported, or are in the process of being unlawfully exported,

may stop the vehicle and search it, and may detain the vehicle for such period as may be reasonably necessary for that purpose.

(2) Notwithstanding any other power provided under this Act, where a proper officer has reasonable grounds to believe that a vehicle is carrying any article that is liable to forfeiture, he may stop and search that vehicle.

(3) Where a person in charge of a vehicle fails to stop, or refuses to permit the vehicle to be searched when requested to do so under subsection (1) or (2), that person commits an offence, and is liable, on summary conviction to a fine not exceeding twenty-five thousand dollars.

118. For the purpose of performing any function or exercising any power which is required or authorised under this Act, a proper officer may, while boarding or searching any conveyance—

Securing goods.

- (a) secure, by appropriate means, goods on board that conveyance; or
- (b) remove goods on board that conveyance to a secure place.

119.—(1) Where a search of persons is to be conducted under this Act—

Procedures to search persons.

- (a) a female shall not be searched except by a female;
- (b) a male shall not be searched except by a male; and
- (c) a minor, whether male or female, shall not be searched except in the presence of his or her parent or guardian.

(2) Before a person is searched, he shall be informed by the proper officer that he may request to be taken with all reasonable dispatch, before the superior officer on duty, for a review of the need for the search.

(3) Where a person is detained under this Act to be searched, and there is—

- (a) no suitable person available to conduct the search, the person detained may be taken to another place to be searched by a suitable person; or
- (b) no suitable place is available for the search, the person detained may be taken to a suitable place to be searched.

(4) A proper officer shall not be liable to any prosecution or action at law, based on any search made in good faith in accordance with this section.

(5) Where an intimate search of a person is to be conducted, such a search shall only be conducted by a medical practitioner.

Application of sections 121, 122 and 123.

120. Sections 121, 122 and 123 apply to—

- (a) a person on board a conveyance which has arrived in, or is departing from Grenada;
- (b) a person in the process of disembarking from, or embarking on to a conveyance described in paragraph (a); or
- (c) a person who, having entered into Grenada at a customs place, remains in that customs place.

Preliminary search of persons by use of aids.

121.—(1) A proper officer may conduct a preliminary search of a person to whom section 120 applies, and may detain such person for the purposes of conducting that preliminary search.

(2) For the purposes of this section, a preliminary search is a search which—

- (a) involves little or no physical contact between the person conducting the search and the person being searched; and
- (b) is conducted by using any aid, including a dog, a chemical substance, or an x-ray or imaging equipment, or some other mechanical, electrical, or electronic device or other similar aid, but not by any more invasive means.

122.—(1) This section applies to any person who—

- (a) is in a customs controlled area;
- (b) has, within the preceding 24 hours, arrived in Grenada at a place other than a customs place; or
- (c) is about to depart from Grenada from any place other than a customs place.

Searching of persons if reasonable cause to suspect items concealed.

(2) A proper officer may cause a person to whom this section applies to be searched if the officer has reasonable grounds to believe that the person has concealed on or about his person—

- (a) any dutiable, uncustomed, restricted or prohibited goods;
- (b) any goods liable to forfeiture under this Act or any other enactment;

- (c) evidence relating to any goods referred to in paragraph (a) or (b); or
- (d) any article that is, or might be, evidence of the contravention or possible contravention of this Act.

(3) A proper officer may—

- (a) use such force as is reasonably necessary in the circumstances, to detain or search any person to whom this section applies; and
- (b) for the purpose of such search, require such other person as the officer thinks necessary to assist him.

(4) A search of a person may be conducted under this section whether or not the person has earlier been the subject of a preliminary search under section 121.

Searching of persons for dangerous items.

123.—(1) A customs officer or police officer, may immediately detain and search a person, if the officer has reasonable grounds to believe that—

- (a) the person has a dangerous item on or about his person; and
- (b) the item poses a threat to the safety of the officer or any other person.

(2) A customs officer or police officer who undertakes a search under this section, shall within 3 working days of the search, give a written report to the Comptroller detailing—

- (a) the search;

- (b) the circumstances in which the search was conducted; and
- (c) the matters that gave rise to the reasonable belief that the person searched, had a dangerous item on or about his person.

(3) For the purposes of this section, “dangerous item” means—

- (a) any firearm or ammunition as defined in section 2 of the Firearms Act; or
- (b) any substance, item, article or device which could be used to endanger a person’s safety.

124.—(1) A proper officer may seize any article found when carrying out a search under section 122, which the officer has reasonable grounds to believe is an item referred to in that section. Seizure of items found.

(2) A proper officer may seize any article found on or about a person when carrying out a search under section 123, which the officer has reasonable grounds to believe is an item referred to in that section.

125. A proper officer may question any person in a customs controlled area. Questioning of persons in a customs controlled area.

126.— (1) Where the Comptroller is satisfied that it is necessary for the protection of any customs officer engaged in the performance of any duty, he may authorize that officer to carry a firearm. Power to carry and use firearms.

(2) A customs officer may use a firearm authorised to be carried under sub-section (1), where such use is necessary for the preservation of life.

Firing on vessel.

127.—(1) The proper officer in charge of any properly identified vessel in the service of the State shall, having hoisted or displayed the proper identification, within the territorial waters of Grenada, chase any vessel if the master of the vessel—

- (a) fails to comply with signals or instructions given by the proper officer; or
- (b) refuses to permit the vessel to be boarded by the proper officer,

and may, as a last resort after having fired a warning shot, fire at or onto the vessel to compel it to stop. Every officer or person acting on his direction, shall be fully indemnified and discharged from every indictment, information, prosecution, penalty action or other proceeding for so doing, and from all of the consequences thereof.

(2) A proper officer may only fire at or onto a vessel if he is satisfied that—

- (a) the master or person in charge of the vessel is aware of the signal to stop; and
- (b) refuses to stop after warning shots have been fired.

128.—(1) This section applies where a proper officer has reasonable cause to believe that— Detention of conveyance.

- (a) an offence against this Act or any other enactment has been, is being, or is about to be committed on, or with the use of the conveyance, while it was or is within Grenada; or
- (b) there is on the conveyance, a person who was carried into Grenada, in contravention of this Act or any other enactment.

(2) Where sub-section (1) applies, the proper officer may—

- (a) direct the conveyance to proceed to the nearest customs controlled areas, or any other place the officer considers appropriate; or
- (b) direct that the conveyance remain where it is, and in either case, the officer may detain the conveyance for such time and for such purposes reasonably necessary to carry out an investigation into the commission of the offence.

(3) Notwithstanding any other power of seizure under this Act, where a person in charge of a conveyance attempts to or threatens to cause the conveyance to depart from a place to which the conveyance has been directed to proceed, or in which the conveyance has been directed to remain pursuant to sub-section (2), without a certificate of clearance, the proper officer may seize and detain the conveyance until a certificate of clearance has been obtained.

Power to
examine and
take account of
goods.

129. Notwithstanding any other provision of any customs enactment, a proper officer may examine any goods—

- (a) which have been imported;
- (b) which are in a public or private customs warehouse;
- (c) which have been loaded on or unloaded from any conveyance at any place in Grenada;
- (d) which have been entered for exportation or for use as stores;
- (e) which have been brought to any place in Grenada for exportation or for use as stores, or for shipment for exportation or for use as stores; or
- (f) in respect of which any claim for drawback, allowance, rebate, remission or repayment of duty has been made,

and may for that purpose require any container to be opened or unpacked.

(2) An examination of goods by a proper officer under subsection (1), shall be made at such time and place as the officer may direct.

(3) The owner of goods to which this section applies shall be responsible for—

- (i) transporting the goods to a place under subsection 2;

- (ii) unloading, opening, unpacking, weighing, repacking, bulktop, sorting, letting, marketing, numbering, loading, carrying or landing the goods;
- (iii) applying any treatment to containers in which goods are kept for the purposes of, and incidental to, the examination by the proper officer; and
- (iv) removing the goods for exportation or for use as stores or warehousing; and
- (v) providing any facility or assistance required for the examination of the goods, or if provided for the owner of the goods, at his expense.

(4) Where without the authority of a proper officer—

- (a) imported goods which a proper officer has the power under this section to examine; or
- (b) goods, other than imported goods, that a proper officer has the power under this section to examine,

are removed from customs charge before they have been examined, such goods shall be liable to forfeiture.

(5) For the purposes of this section, whenever goods are removed to a bonded area for examination—

- (a) the proper officer at the place of importation, shall immediately send a copy of the import entry for the goods, to the proper

officer at the bonded area or bonded warehouse;

- (b) the goods shall be removed directly from the place of importation to the bonded area or bonded warehouse and, if not sealed, shall be accompanied by a proper officer; and
- (c) packages shall not be opened or otherwise dealt with, except in the presence of, or by the authority of the proper officer.

Examination of goods subject to customs control.

130.—(1) A proper officer may—

- (a) examine, weigh, analyse or test, or cause to be examined, weighed, analysed or tested—
 - (i) goods subject to customs control; or
 - (ii) goods which the officer has reasonable cause to believe are subject to customs control; and
- (b) for any purpose, open or cause to be opened any packages in which such goods are contained or believed to be contained.

(2) Any reasonable expense incurred by the proper officer under sub-section (1)—

- (a) is a civil debt owed to the State by the importer, exporter or owner of the goods; and

- (b) is recoverable by legal action brought at the suit of the Comptroller on behalf of the State.

(3) The powers conferred by or under sub-section (1), extend to the examination, weighing, analysing, or testing of a suitcase, pallet, bulk cargo container, or other package subject to customs control.

(4) The examination of the goods under this section may include—

- (a) the physical or chemical testing of the goods; or
- (b) the drilling into or the dismantling of the goods.

(5) Subject to section 159, for the purposes of exercising powers under this section in respect of goods which are, or are believed to be subject to customs control, a proper officer shall be allowed free access to—

- (a) all lands, buildings or places; and
- (b) all goods in or on any lands, buildings or places.

131.—(1) The High Court may, on an application by the Comptroller, issue a writ of assistance. Writ of assistance.

(2) A writ of assistance issued pursuant to sub-section (1), shall continue in force until cancelled by the High Court on an application by the Comptroller.

(3) Any officer in possession of a writ of assistance issued pursuant to sub-section (1), may—

- (a) at any time, enter into and search any house, shop, cellar, warehouse, room or any other place, including any place where documents relating to uncustomed or prohibited goods can be reasonably expected to be found; and
- (b) in the case of resistance, break open doors, chests, trunks and other packages for the purpose of seizing and taking away any uncustomed goods or any books or documents relating to such goods.

(4) Where the proper officer seizes any goods, books or documents under this section, the officer shall ensure that such goods, books or documents are adequately secured.

Examination of goods no longer subject to customs control.

132.—(1) This section applies to goods that have ceased to be subject to customs control, but that the Comptroller has reasonable grounds to suspect are goods—

- (a) in respect of which an offence against this act has been committed; or
- (b) which are liable to forfeiture under this Act.

(2) The Comptroller may require a person who has, or whom the Comptroller believes has possession or control of goods described in subsection (1), to produce them for inspection by a proper officer.

(3) For the purposes of this section, a proper officer may exercise all the powers provided under section 125, in respect of goods described in sub-section (1).

(4) A proper officer may take and retain possession of goods produced under sub-section (2), for the purposes of exercising the powers given under sub-section (3), and may retain possession of the goods, until the completion of the investigation into the grounds for suspecting that the goods—

- (a) are goods in respect of which an offence against this Act has been committed; or
- (b) are goods that are liable to forfeiture under this Act.

(5) A person who fails or refuses to produce or account for any goods when required to do so under this section, commits an offence, and is liable, on summary conviction to a fine not exceeding twenty-five thousand dollars.

133.—(1) The Comptroller may—

Verification of
entries.

- (a) require from a person making entry of goods, proof by declaration or the production of documents of the correctness of the entry, in addition to any declaration or documents otherwise required by this Act; and
- (b) refuse to deliver the goods or to accept the entry before such proof is provided.

(2) Where the Comptroller is not satisfied with—

- (a) the correctness of an entry in relation to any goods; or

- (b) any other aspect of the importation or exportation of any goods to which an entry relates,

the Comptroller may detain the goods for such period as is reasonably necessary to enable the goods to be examined, and if necessary, to cause an investigation to be made, whether in Grenada or elsewhere, respecting the importation or exportation of those goods.

Power to take samples.

134.—(1) Samples of goods subject to customs control or believed to be subject to customs control, may be taken and used by the proper officer for the purposes of examination, and disposed of in the prescribed manner.

(2) A sample taken in accordance with sub-section (1), shall be as small as is practicably possible for the purpose for which it is taken.

(3) Any sample taken by a proper officer under sub-section (1), unless it is liable to forfeiture or it is impractical to do so, shall be returned upon payment of such duty as may be payable in respect of it, to the person who was at the time of the sample, the owner of it.

Power of arrest.

135.—(1) Subject to sub-section (2), a customs officer or police officer may arrest a person who has committed, or who that officer has reasonable grounds to believe has committed, or is about to commit, an offence under this Act or any customs enactment.

(2) A person may not be arrested for an offence by virtue of subsection (1), more than five years after the commission of that offence.

(3) Where a customs officer arrests a person under a power conferred by this section, the customs officer shall, as soon as practicable, deliver the arrested person into the custody of a police officer.

136.—(1) Where a person subject to arrest under section 135 or any other customs enactment, escapes from a customs officer or a police officer attempting to arrest the person, or if a customs officer or police officer is for any reason unable, or fails to arrest the person, the person may afterwards be arrested and detained by a customs officer at any place in Grenada, within five years from the time the offence was committed, and dealt with as if he had been arrested at the time of committing the offence. Escape from officer.

137.—(1) The Comptroller may, with the approval of the Minister, reward or give an award to any person, including a customs officer, for any service in relation to an assigned matter, which appears to merit such reward or award. Power to pay rewards.

(2) Notwithstanding sub-section (1), approval need not be obtained for a reward not exceeding ten thousand dollars.

(3) The Comptroller may, with the approval of the Minister, pay a reward to any person, an amount not exceeding twenty percent of any fine, penalty, forfeiture or monies recovered, who informs him of any offence against the customs laws.

138.—(1) Where under this Act or any other customs enactment the master, commander or driver of a conveyance, is required to answer any question put to him by the Comptroller or a proper officer, the Comptroller or the officer may, at any time while the conveyance is within the territorial Power to require attendance.

waters or within the borders of Grenada, require the master, commander, driver or agent or a senior officer of the conveyance, to appear in the office of the Comptroller or the officer.

(2) A master, commander, agent or senior officer of the conveyance who fails to comply with sub-section (1), commits an offence, and is liable on summary conviction, to a fine not exceeding ten thousand dollars.

Power to require information and the production of evidence.

139.—(1) The Comptroller may, at any time within five years of the importation, exportation or carriage coastwise of any goods, require any person—

- (a) concerned in that importation, exportation or carriage coastwise; or
- (b) concerned in the carriage, unloading, landing or loading of the goods,

to furnish to him in such form and manner as the Comptroller may require, any information relating to the goods, and to produce and permit a proper officer to inspect, take extracts from, make copies of or remove for a reasonable period, any invoice, bill of lading or other book or document relating to the goods in that person's control or possession.

(2) The Comptroller may require evidence to be produced to his satisfaction, in support of any information provided in respect of—

- (a) goods imported, exported or carried coastwise; or

- (b) goods for which drawback, allowance, rebate, remission, refund or repayment of duty is claimed.

(3) A person who fails to comply with any provisions of this section commits an offence, and is liable on summary conviction, to a fine not exceeding twenty-five thousand dollars.

140. For the purpose of meeting the exigencies of any case to which a customs enactment cannot be conveniently applied, the Comptroller may permit— Power of Comptroller in special circumstances.

- (a) the entry, unloading, removal and loading of goods; and
- (b) the report and clearance of conveyances,

in such form and manner as the Comptroller may direct.

141.—(1) Notwithstanding any other provision of this Act, where a person requests in writing that the offence be dealt with administratively, rather than through court proceedings, the Comptroller may at any time prior to the commencement of proceedings in a court against the person for the offence— Power to accept compensation for offences.

- (a) impose a fine or penalty not exceeding that prescribed for the offence;
- (b) seize the goods; or
- (c) mitigate or remit any fine or penalty or restore anything seized under the customs laws.

(2) This section shall not affect any right conferred by any written law to claim goods in the case of a seizure, or to commence or require the commencement of legal proceedings at any time prior to the payment of the fine or penalty.

Power to require security.

142.—(1) Without prejudice to any express security requirement provided for by this Act or any other customs enactment, the Comptroller may, if he sees fit, require any person to give security by bond or otherwise, for the observance of any condition or restriction in connection with an assigned matter.

(2) The Comptroller may, pending the giving of the required security, refuse to accept an entry, or to perform any other act in relation to the matter with respect to which the security is required.

(3) Security may be required in relation to a particular transaction, or in relation to transactions generally or to a class of transactions, and for such period and amount, and on such conditions as to penalty or otherwise, as the Comptroller may direct.

(4) Subject to the provisions of this Act prohibiting release, where the Comptroller is satisfied that the obligations for which any security given in accordance with this section have been fulfilled, the person who gave the security, shall be released from the conditions of the security as soon as possible.

(5) Any bond taken for the purposes of an assigned matter—

- (a) is taken on behalf of the Government of Grenada; and

- (b) may be cancelled at any time by order of the Comptroller.

(6) Where at any time the Comptroller is dissatisfied with the sufficiency of any security, the Comptroller may require a new security in place of, or in addition to, the existing security.

(7) If the new security required under sub-section (6) is not given, the Comptroller may refuse to accept an entry, or to perform any other act in relation to any matter with respect to which the new security is required.

(8) A person who is dissatisfied with a decision of the Comptroller under this section may, within seven days after the date on which notice of the decision is given, request the Comptroller to reconsider the decision.

143.—(1) The operator of a customs controlled area shall provide reasonable accommodation for proper officers and a place, tools and equipment necessary to facilitate the examination of goods. Power to require provision of facilities.

(2) A person required under this Act to provide a place to be used for the examination of goods by a proper officer shall—

- (a) provide and maintain the equipment and facilities that are reasonably necessary to enable a proper officer to—
 - (i) take account of or examine goods; and
 - (ii) conduct searches, or perform any other duties the Comptroller may direct;

- (b) keep any equipment in a convenient place approved by the proper officer for that purpose; and
- (c) allow the proper officer to use the equipment at any reasonable time; and
- (d) provide the officer with any assistance necessary for the performance of the officer's duties.

(3) A person who contravenes sub-section (1), commits an offence, and is liable on summary conviction to a fine not exceeding ten thousand dollars.

(4) Any person required to provide a place to be used for the examination of goods by a proper officer under sub-section (1), shall provide and maintain any fitting required for the purpose of affixing any lock or seal that the proper officer may need to affix to the premises, or any part of the premises of that person, or to any conveyance or apparatus kept on the premises.

(5) Where there is default in providing and maintaining of any fitting in accordance with sub-section (4), the fitting may be provided, or any work necessary for its maintenance may be carried out by or on behalf of the proper officer, and any expenses incurred, shall be paid on demand of the officer by the person in default.

(6) The expenses incurred under sub-section (5) shall, on demand, constitute a debt owed to the State recoverable in accordance with this Act.

(7) A person who fails to pay the expenses on demand commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

(8) A person referred to in this section who is required to provide a place to be used for the examination of goods by a proper officer, and—

- (a) willfully destroys or damages any fitting or any lock or key provided for use with the lock, or any label or seal placed on such lock;
- (b) improperly retains access to any place or article secured by a lock put in place by a proper officer; or
- (c) has any fitting or any article intended to be secured by means of a fitting constructed in a manner that defeats the intention of this section,

commits an offence and is liable on summary conviction on indictment, to a fine not exceeding one hundred thousand dollars.

144.—(1) A proper officer may, at all reasonable times— Audit or examination of records.

- (a) enter any premises or place where records are kept pursuant to section 91; and
- (b) audit or examine those records either—
 - (i) in relation to specific transactions; or

- (ii) to assess the adequacy and integrity of the manual or electronic system by which such records are created and stored.

(2) For the purposes of subsection (1), a proper officer shall, have full and free access to—

- (a) all lands, buildings and places; and
- (b) all books, records and documents,

whether in the custody or under the control of the licensee, importer or exporter or any other person.

(3) The full and free access referred to in sub-section (2), shall be for the purpose of inspecting any books, records, documents, any property, process or matter which the officer considers—

- (a) necessary or relevant for the purpose of collecting any duties due under any customs enactment;
- (b) necessary or relevant for the purpose of carrying out any function lawfully performed by a proper officer; or
- (c) likely to provide any information otherwise required for the purposes of enforcing any customs enactment.

(4) The proper officer may, without fee or reward, make extracts from or copies of any books, records or documents to which this section applies.

(5) A customs officer shall not enter any private dwelling, except with the consent of the occupant or owner, or under a warrant issued in accordance with this Act.

145.—(1) Where—

Requirement to produce documents.

- (a) a proper officer has reasonable cause to believe that goods have been unlawfully imported, exported, undervalued, entered, removed, or otherwise unlawfully dealt with by any person in contravention of this Act, or that any person intends to unlawfully import, export, manufacture, undervalue, enter, remove, or otherwise deal with any goods; or
- (b) goods have been seized under this Act,

the Comptroller may, by written notice, require any person to comply with the requirements specified in sub-section (2), if the proper officer believes that the person—

- (a) is or has been the owner, importer or exporter of such goods;
- (b) is or has been an agent of the owner, importer or exporter of the goods; or
- (c) has been concerned in the unlawful activities specified in paragraph (a).

(2) The Comptroller may require the owner, importer or exporter of the goods, or an agent of the owner, importer or exporter of the goods referred to in sub-section (1), to—

- (a) produce and deliver to the proper officer or any other specified officer, all books of

account, invoice books, or other books, records or documents, whether or not in electronic form, in which any entry or memorandum appears, or may be supposed to appear, concerning the purchase, importation, exportation, manufacture, cost valuation of, or payment for the goods within a period of five years preceding the date of notice;

- (b) allow the proper officer to make copies of records, or take extracts from any of the documents, books; or
- (c) answer any question concerning the documents, books or records.

(3) A person who fails to comply with a request under this section, commits an offence and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars.

Power to require copies of documents.

146. Where a person is required to submit a report, entry, or other form for the purpose of any customs enactment, the Comptroller may require that person to submit as many copies thereof as he may deem necessary.

Further powers in relation to documents.

147.—(1) The Comptroller may, by written notice, require a person—

- (a) to produce for inspection by a specified officer, documents or records that the Comptroller considers necessary or relevant to—
 - (i) an investigation under this Act;

- (ii) an audit under this Act; or
 - (iii) the recovery of a debt, due and payable to the State under this Act; or
- (b) to allow the specified officer to take extracts from, or make copies of, documents or records of the kind referred to in paragraph (a) or to appear before a specified officer and answer all questions put to the person concerning the goods, or transactions relating to those goods which are—
- (i) the subject of the investigation or audit under this Act; or
 - (ii) relevant to the recovery of the debt, referred to in paragraph (a).

(2) A person who fails to comply with a request made under subsection (1), commits an offence and is liable on summary conviction to a fine not exceeding one hundred thousand dollars.

148.—(1) Where a proper officer—

- (a) carries out any lawful search, inspection, audit, or examination under this Act or any customs enactment; and
- (b) has reasonable cause to believe that documents coming into his possession during such search, inspection, audit, or examination, is evidence of the commission of an offence against this Act or any other customs enactment,

Copying of
documents
obtained
during search.

the proper officer may remove the documents for the purpose of making the necessary copies.

(2) Where any document is removed under subsection (1), the proper officer shall, as soon as practicable after the necessary copies of the document have been made, return the document to the person entitled to have possession of it.

(3) Without prejudice to subsection (1), where a proper officer—

- (a) carries out lawful search, inspection, audit or examination under any customs enactment; and
- (b) has reasonable cause to believe that—
 - (i) an offence under a customs enactment has been committed or is about to be committed; or
 - (ii) evidence of an offence is to be found in information stored on a computer or other electronic device,

the proper officer may, subject to subsection (4), make a hard copy of the information or save a copy of the information in an electronic form.

(4) Where it is not possible for the proper officer to make a hard copy or to save a copy of the information in an electronic form, the proper officer may apply to a Magistrate for a warrant, to allow the proper officer to seize and retain

the computer or other electronic device on which the information is believed to be stored, for as long as is reasonable to copy the information required.

(5) A copy of any document certified under the seal of Customs, is admissible in evidence in all courts or tribunals as if it were original.

149.—(1) Where a proper officer—

Retention of documents and goods obtained during search.

- (a) carries out a lawful search, inspection, audit or examination under this Act; and
- (b) has reasonable cause to believe, that any documents or goods coming into his possession during the search, inspection, audit, or examination are—
 - (i) evidence of the commission of an offence under this Act; or
 - (ii) intended to be used for the purpose of committing any offence against this Act,

the officer may, subject to sub-section (4), take possession of and retain the documents or goods.

(2) Where a proper officer takes possession of documents under subsection (1), he shall, at the request of the person otherwise entitled to the document, provide such person with a copy of the document certified under the seal of Customs as a true copy.

(3) Notwithstanding any other law, a copy certified in accordance with sub-section (2), is admissible in evidence in all courts or tribunal as if it was the original.

(4) Where a proper officer takes possession of and retains documents or goods under this section—

(a) in any proceedings for an offence relating to the documents or goods, the court or tribunal may order, either at the hearing or on a subsequent application, that the documents or goods be—

(i) delivered to the person appearing before the court or tribunal to be entitled to them; or

(ii) otherwise disposed of, in such manner and under such conditions as the court or tribunal thinks fit; and

(b) the proper officer or any authorised person may—

(i) at any time, unless an order has been made under paragraph (a), return the documents or goods to the person from whom they were taken; or

(ii) apply to the Magistrate for an order as to their disposal.

(5) Where the proper officer or an authorised person makes an application under subsection 4 (b) (ii), the

Magistrate may issue such order as a court or tribunal may issue under sub-section (4) (a).

(6) If proceedings for an offence relating to the goods or documents retained under this section, are not brought within a period of 6 months after the date on which the officer took possession of the document or goods, any person claiming to be entitled to the goods or documents may, after the expiration of that period, apply to a Magistrate for an Order for the delivery of the documents or goods.

(7) The Magistrate may, on any application under sub-section (6)–

- (a) refuse to issue the Order; or
- (b) make such Order as a court or tribunal may make under sub-section (4) (a).

150.—(1) Where a customs officer has reasonable grounds to believe that goods were obtained in contravention of any law, he may without warrant, seize and detain such goods, if the goods–

Detention of goods suspected to be illegally obtained.

- (a) are in Grenada and he is satisfied that the goods–
 - (i) are being, or are intended to be exported from Grenada; or
 - (ii) are being, or have been imported into Grenada; and
- (b) came to the attention, or into the possession of the customs officer or authorised person during a

search, inspection, audit or examination under this Act or any enactment which relates to the reporting of imports or exports of currency.

(2) A proper officer may use reasonable force, if it is necessary to seize or detain goods under this section.

(3) If the person from whom the goods have been seized and detained under this section is identified, but is not present when the seizure and detention occurs, the Comptroller shall notify that person of the detention and seizure, and issue a receipt in respect of the seized and detained goods.

(4) Subject to section 153, goods detained under this section, shall be taken to a place of security as directed by the proper officer or other authorised person, and there detained.

Return of goods
detained under
section 150.

151.—(1) Goods seized and detained under section 150 shall be returned to the person from whom they were seized and detained as soon as practicable, after—

- (a) the completion of all relevant investigations, if it is shown that the goods are not tainted property; or
- (b) the expiration of the investigation period, if sooner.

(2) Notwithstanding sub-section (1), where on or before the expiration of an investigation period—

- (a) information relating to goods which were seized and detained under sub-section (1), is laid before a Magistrate; or

- (b) any other country makes a request to the Attorney-General, under any agreement relating to mutual legal assistance in relation to such goods,

the Comptroller may continue to detain such goods until the determination of the relevant proceedings or request, including any resulting applications.

(3) For the purposes of this section, “investigation period” in relation to goods seized and detained under section 150—

- (a) means the period of six months after the date on which the goods were seized and detained; and
- (b) includes any extension of that period granted by the court.

152.—(1) Subject to sub-section (2), where the Comptroller is of the opinion that an extension of the six month period is necessary to allow for the completion of investigations in or outside Grenada in relation to the goods, the Comptroller may, in writing, before the expiration of the six month period referred to in section 151(3) (a), apply to the court for an extension of time. Extension of six month period.

(2) The application for an extension must be made in writing and served on the person from whom the goods were seized, if that person can be identified and located, and shall include—

- (a) a description of the goods detained;

- (b) the date on which the detention commenced; and
- (c) a statement of the reasons why the extension is necessary to allow the completion of investigations in or outside Grenada in relation to the goods;

(3) The person from whom the goods were seized is entitled to appear and be heard on the application.

(4) The Comptroller shall make all reasonable efforts to notify the person from whom the goods were seized, at least twenty four hours before the hearing of the application, of the time and place of that hearing.

(5) Where the Court is satisfied that there is reasonable cause to believe that the goods were obtained in contravention of any law, and the extension of time is necessary, the Court may, by order, extend the six month period for a reasonable period of up to sixty days, but the Court shall only make one such extension in respect of the same investigation.

Custody of certain articles detained under section 150.

153.—(1) Where the article detained under section 150 is a conveyance or animal, a proper officer may leave that item in the custody of—

- (a) the person from whom the goods have been seized; or
- (b) any other person authorised by the proper officer, who consents to having such custody.

(2) A person who has the custody of goods under sub-section (1) shall, until a final decision is made under section 152 as to whether or not the goods are to be returned, hold them in safe keeping, without charge to the State and in accordance with any reasonable conditions that may be imposed by the Comptroller.

(3) A person to whom sub-section (2) applies shall—

- (a) make the item available to the proper officer on request;
- (b) not alter or dispose of the item or remove it from Grenada, unless authorised to do so by the proper officer; and
- (c) on demand, return the item to the custody of the Comptroller.

154.—(1) A Magistrate may issue a search warrant if he is satisfied, on an application by a proper officer in writing made on oath, that there are reasonable grounds to believe that there is, in or on any place or article—

- (a) anything that there are reasonable grounds to believe may be evidence of—
 - (i) the commission of an offence against this Act; or
 - (ii) the unlawful exportation or importation of goods;
- (b) anything that there are reasonable grounds to believe is intended to be used for the purpose of—
 - (i) committing an offence under this Act; or

- (ii) unlawfully exporting or importing goods;
 - (c) anything that is liable to seizure under this Act.
- (2) The proper officer shall—
 - (a) before applying for a warrant, make such reasonable enquiries respecting the subject matter of the application; and
 - (b) disclose on the application, details of—
 - (i) any other application, within the knowledge of the officer, which has been made within the twenty successive working days immediately preceding the date of the application, in respect of the place or article specified in that application;
 - (ii) any offence alleged in any other application; and
 - (iii) the result of any other application.
- (3) A search warrant shall be—
 - (a) directed to and executed by a designated proper officer; or
 - (b) directed to customs officers generally, and executed by any customs officer or officers.

(4) A warrant may be issued subject to such reasonable conditions as may be specified in the warrant.

155.—(1) In executing a search warrant, a proper officer or a police officer may, search the place or any person/s found at the place who the officer reasonably believes is connected to the matter referred to, as is specified in the warrant. Entry and search under warrant.

(2) A proper officer or a police officer—

- (a) may without warrant, arrest a person who refuses to be searched or detained under sub-section (1); or
- (b) shall not detain a person under sub-section (1) for a period of time exceeding forty eight hours.

(3) In executing a warrant referred to in sub-section (1), a proper officer or a police officer may—

- (a) seize any item found in the place being searched or on the person being searched, if the customs officer or police officer has reasonable cause to believe that the item is referred to in the warrant; and
- (b) call upon any other person to assist the proper officer or the police officer in executing the warrant.

(4) A person called upon to assist the proper officer or a police officer in executing the warrant, has, for that purpose,

the powers of a proper officer or police officer referred to in this section.

(5) A person who fails or refuses to comply with a search or detention pursuant to this section, commits an offence and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars.

Execution of
search warrant.

156.—(1) A proper officer executing a search warrant shall produce it for inspection upon initial entry into a place, and in response to any reasonable request thereafter and, when requested by or on behalf of the owner or the person occupying the premises, shall provide a copy of the warrant no later than seven days after the request is made.

(2) The person executing the warrant shall inform the owner or person occupying the premises of the date and time of the execution of the warrant, and the name of the officer in charge of the search—

- (i) by delivering to the owner or person occupying the premises, a written notice containing the information;
- (ii) by leaving a notice in a prominent position at the place searched or attached to the article searched;
- (iii) by sending a notice to the owner or person occupying the premises by registered mail;
or

- (iv) in such other manner as the court may direct in any particular case.

157.—(1) Subject to this section where the Magistrate is satisfied, on an application made by a proper officer that— Emergency warrants.

- (a) circumstances exist that would justify the grant of a search warrant under section 155; and
- (b) the urgency of the situation requires that a search should begin before a warrant under that section could, with all practicable diligence be obtained,

the Magistrate may, orally or in writing, grant an emergency warrant to the proper officer making the application.

(2) An application for an emergency warrant may be made orally, but otherwise, every application for an emergency warrant must comply with the requirements of section 154.

(3) Where the Magistrate grants the application for an emergency warrant, the proper officer shall, where practicable before executing the warrant, file a written statement containing the particulars of the application, and the statement shall, for the purposes of section 155, be deemed to be an application under that section.

(4) A proper officer executing an emergency warrant, shall produce the statement made in accordance with sub-section (3), for inspection upon initial entry, and in response to any reasonable request after such entry, and when requested, shall provide a written copy of the statement no later than 7 days after the request is made.

(5) Sections 155 and 156 so far as they are applicable and with the necessary modifications, shall apply to emergency warrants in the same manner as they apply to other search warrants.

(6) An emergency warrant shall remain valid for 24 hours from the time the authorization is given.

(7) As soon as practicable after an emergency warrant has expired, the proper officer who applied for it, or, if that officer is not able to do so, another proper officer, shall provide a written report, in the prescribed form, setting out—

- (a) the manner in which the emergency warrant has been executed; and
- (b) the results obtained by the execution of the warrant.

Use of aids by
customs officer.

158.—(1) In exercising any power under this Act to board a conveyance, enter a building or search any premises, a proper officer or a police officer, may bring with him and use as an aid in exercising those powers—

- (a) a dog or a chemical substance; or
- (b) x-ray or imaging equipment, or some other mechanical, electrical, or electronic device.

(2) This section does not apply to a search carried out on residential premises, except pursuant to a warrant issued under section 153 or 156.

159. Every provision of this Act which confers on a customs officer the power to enter any building, with the exception of a customs controlled area, would require the authority of a warrant, emergency warrant or writ of assistance, and is subject to—

Condition applying to entry of buildings.

- (a) reasonable notice of the intention to enter being given, except where it would frustrate the purpose of the entry;
- (b) entry being made at a time that is reasonable, taking into account the circumstances, so as to avoid frustrating the purpose of the entry;
- (c) identification being produced on initial entry and, if requested, at any subsequent time; and
- (d) the authority for the entry and the purpose of the entry being stated to the owner or person occupying the building, if present.

160.—(1) A customs officer may detain goods found in the course of exercising any power of search or examination concerning aircraft, if the officer has a reasonable belief that the goods are—

Detention of dangerous goods.

- (a) dangerous goods that may not be lawfully carried on an aircraft; and
- (b) intended to be carried on an aircraft.

(2) Where a customs officer detains goods under sub-section (1), he shall, as soon as practicable, deliver such goods into the custody of the—

- (a) Grenada Airport Authority; or

(b) operator of the aircraft.

(3) Where goods have been delivered under sub-section (2), responsibility for those goods passes from the Comptroller to the—

(a) Grenada Airport Authority; or

(b) operator of the aircraft.

Protection of
persons acting
under authority
of the Act.

161.—(1) Subject to sub-section (2)—

(a) a proper officer or a member of the Police Force;
or

(b) a person assisting a proper officer or a member of
the Police Force,

shall not be liable for the loss of or damage to any document, goods or conveyance caused by the action or inaction of that person lawfully exercising any power conferred under this Act.

(2) Sub-section (1) does not apply where the person in question has not acted in good faith, or has acted without reasonable care.

Comptroller may
specify forms.

162.—(1) Subject to this Act, the Comptroller—

(a) may specify forms required to be used for the purposes of implementing this Act and any customs enactment; and

- (b) shall cause forms prescribed under provisions to be published in the *Gazette* fourteen days before the forms are required to be used.

(2) Every importer and exporter shall use the appropriate forms.

(3) Every document submitted to the Comptroller or a proper officer for the purposes of this Act or any customs enactment, shall be in the prescribed form, and shall contain the particulars as may be prescribed by the Comptroller.

(4) Unless otherwise required by the Comptroller, any document submitted under this section may be written in electronic form, and such document shall serve as a legal document.

163.—(1) A person who submits a document to the Comptroller pursuant to section 40 or 52, shall ensure that the information given in that document is correct. Errors in documentation.

(2) Where a proper officer discovers, that an error has been made in a document submitted in accordance with section 40 or 52 in relation to—

- (a) the classification of the goods;
- (b) the description of the goods;
- (c) the value of the goods;
- (d) the customs procedure code; or
- (e) any other material respect,

the person who submits the document commits an offence, and is liable, on summary conviction, to a fine not exceeding one hundred dollars.

(3) Where an error in a document is determined to be a clerical error or a mistake of fact or negligence not contributing a pattern of negligence, no penalty shall be imposed.

Witnessing of
signature.

164. Where—

- (a) a document or declaration, whether in written or electronic form or otherwise, is required by a customs enactment to be signed in the presence of the Comptroller or any particular officer; and
- (b) the document or declaration is signed in the presence of a witness, whose signature is known to and who is approved by the Comptroller or the officer who receives such document or declaration,

then the document or declaration shall be as valid as if it had been signed in the presence of the Comptroller or the officer in whose presence it is required to be signed.

Documents in
foreign
language.

165. Where a person presents a document in a foreign language to a proper officer, in relation to the carrying out of any duty or exercise of any power under this Act or any other enactment, the proper officer may require the person who presented the document to supply to the officer, an English translation of the document prepared by a person approved by the officer, at the expense of the person who presented the document.

PART XIV**OFFENCES**

166. A person who—

Impersonation
of officer.

(a) for the purpose of—

- (i) obtaining admission to any building, conveyance or other place;
- (ii) performing, any act which he is not entitled to perform;
- (iii) procuring to be performed any act which he is not entitled to perform or procure to be performed; or

(b) for any other unlawful purpose, falsely assumes the name, designation or character of the Comptroller, customs officer or any authorised person to discharge any duty relating to an assigned matter,

commits an offence, and is liable, on summary conviction to a fine not exceeding fifty thousand dollars, or to a term of imprisonment not exceeding two years.

(2) Without limiting the generality of sub-section (1), a person commits an offence under sub-section (1), if that person—

(a) by words, conduct or demeanour holds himself out to be the Comptroller, a customs

officer or any person authorized by the Comptroller to discharge any duty relating to an assigned matter; or

- (b) unlawfully wears or uses the uniform, name, designation or description of the Comptroller, a customs officer or a person authorized by the Comptroller to discharge any duty relating to an assigned matter.

Offences against officers.

167.—(1) A person who—

- (a) maliciously shoots at a conveyance in the service of Customs;
- (b) maliciously shoots at a customs officer executing his duty, whether or not he causes physical damage;
- (c) with violence commits any of the offences mentioned in sub-section (4); or
- (d) aids, abets or assists in the commission of any act or offence referred to in paragraph (a), (b) or (c),

commits an offence and is liable, on conviction on indictment to a term of imprisonment not exceeding ten years.

(2) A person who—

- (a) intentionally obstructs or hinders a proper officer in the performance of a duty or the exercise of a power imposed or conferred on him by this Act or any other customs enactment;

- (b) does anything which impedes or is calculated to impede the carrying out of a search for anything liable to forfeiture under this Act or any other customs enactment or detention, seizure or removal under this Act or any other customs enactment;
- (c) intentionally rescues, damages or destroys anything liable to forfeiture under this Act;
- (d) does anything calculated to prevent the procuring or giving of evidence respecting anything which is liable to forfeiture under this Act;
- (e) intentionally interferes with any equipment, conveyance, dog, communication system, or other article used, or intended for use by a customs officer;
- (f) acts with the intention of impairing the effectiveness of any equipment, conveyance, dog, communication system, or other aid used, or intended for use by a customs officer; or
- (g) prevents the arrest of a person under this Act or any other customs enactment; or
- (h) rescues any person arrested under this Act or any other customs enactment,

commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars and to a term of imprisonment not exceeding three years.

(3) Where an offence referred to in sub-section (2) is committed by a person—

- (a) armed with a lethal weapon, including sticks or stones or other similar articles; or
- (b) in any violent manner,

such person shall be liable on conviction on indictment to a term of imprisonment not exceeding five years.

(4) A person who uses abusive, offensive or threatening language to a customs officer engaged in the performance of duty or the exercise of a power imposed or conferred on him by any customs enactment, commits an offence and is liable, on summary conviction, to a fine not exceeding ten thousand dollars.

(5) A person who—

- (a) staves, breaks, or destroys goods to prevent detention or seizure of the goods by a proper officer, or another person authorised to detain or seize the goods;
- (b) rescues any person apprehended for any offence punishable by a pecuniary penalty or imprisonment under this Act or any other enactment or prevents the apprehension of such a person;
- (c) obstructs a customs officer from—
 - (i) going or remaining on board a conveyance within Grenada;

- (ii) returning from on board a conveyance within Grenada from searching a conveyance; or
 - (iii) detaining or seizing any goods liable to forfeiture under this Act; or
 - (iv) otherwise acting in the execution of his duty;
- (d) attempts to commit any act referred to in paragraph (a), (b), or (c); or
- (e) aids, abets or assists in the commission of any act referred to in paragraph (a), (b) or (c),

commits an offence, and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars.

168.—(1) If the Comptroller, a proper officer or any other person authorised by the Comptroller to discharge any duty relating to an assigned matter—

Bribery and collusion.

- (a) directly or indirectly asks for, or takes in connection with any of his duties, any payment or other reward, or any promise or security for any such payment or reward, not being a payment or reward that he is lawfully entitled to claim or receive; or
- (b) enters into or acquiesces in any agreement to perform, abstain from performing, any act related to an assigned matter, whereby the Government

of Grenada is or may be defrauded or that is otherwise unlawful,

that person commits an offence, and is liable, on summary conviction to a fine not exceeding one hundred thousand dollars or to a term of imprisonment not exceeding five years.

(2) A person who—

- (a) directly or indirectly offers or gives to the Comptroller, a proper officer or to any other person authorised by the Comptroller to discharge any duty relating to an assigned matter, any payment or other reward whether pecuniary or other, or any promise or security for any such payment or reward; or
- (b) proposes or enters into any agreement with the Comptroller, the officer or another authorized person, in order to induce him to perform, abstain from performing, any act related to an assigned matter, whereby the Government of Grenada is or may be defrauded or that is otherwise unlawful, or otherwise in contravention of the Comptroller's, a customs officer's or an authorised person's duty,

commits an offence, and is liable, on summary conviction, to a fine not exceeding one hundred thousand dollars or to a term of imprisonment not exceeding five years.

169.—(1) Where a conveyance departs from Grenada carrying on board a customs officer without his consent, the master, commander or driver or his agent, commits an offence, and is liable, on summary conviction to a fine not exceeding one hundred thousand dollars or to a term of imprisonment not exceeding five years.

Carrying away officers.

(2) In addition to any other liability imposed on a person under sub-section (1), the amount of any expenses incurred by the Comptroller or the Government of Grenada caused by the carrying away of a customs officer, may be recovered from that person or from the owner of the conveyance.

170.—(1) A person who, unless for just and sufficient cause, interferes in any way with any vessel, aircraft, vehicle, buoy, anchor, chain, rope or mark which is being used by a proper officer in the performance of his duty, commits an offence, and is liable, on summary conviction, to a fine not exceeding fifty thousand dollars or to a term of imprisonment not exceeding two years.

Interfering with customs vessels, aircraft, etc.

(2) A person who fires upon any vessel, aircraft or vehicle being used by a proper officer in the performance of his duty, commits an offence, and is liable on summary conviction, to a term of imprisonment not exceeding five years.

171.—(1) In this section, references to a “prohibited signal” or a “prohibited message” are references to a signal or message connected with the smuggling or intended smuggling of goods into or out of Grenada.

Signalling to smugglers.

(2) A person who by any means sends a prohibited signal or transmits a prohibited message from any place in Grenada or from any conveyance, to a person in any other conveyance—

- (a) the person commits an offence, and is liable, on summary conviction to a fine not exceeding twenty-five thousand dollars or to a term of imprisonment not exceeding 2 years; and
- (b) any equipment or apparatus used by such person for the sending of the signal or message, is liable to forfeiture.

(3) Sub-section (2) applies, whether or not the person for whom the signal or message is intended, is in a position to receive it or is actually engaged at that time in smuggling.

(4) For the purposes of this section, if any conveyance to which a signal described in sub-section (1) is sent—

- (a) changes its course;
- (b) at anchor, weighs anchor; or
- (c) sends a signal in apparent response,

the conveyance shall, for the purposes of this section, be deemed to be a smuggling conveyance, unless the contrary is proved.

(5) Where a customs officer or a police officer has reasonable grounds to believe that a prohibited signal or a

prohibited message is being, or is about to be transmitted from any conveyance, building or other place in Grenada, the officer may—

- (a) board or enter that conveyance, building or place; and
- (b) take such steps as are reasonably necessary to prevent the sending of that signal or message.

172. If any conveyance comes to or is found within Grenada having— Adapting conveyance for smuggling.

- (a) any part adapted for the purpose of concealing goods or persons; or
- (b) any hole, pipe or device adapted for the purpose of concealing goods or persons,

the master, commander, driver or person in charge of the conveyance and the owner, each commits an offence, and each is liable, on summary conviction to a fine not exceeding twenty-five thousand dollars, and the conveyance shall be liable to forfeiture.

173. A person who, with fraudulent intent, communicates in any way with a conveyance arriving from a place outside Grenada before that arriving conveyance has been cleared by the proper officer, commits an offence, and is liable, on summary conviction, to a fine not exceeding twenty-five thousand dollars or to a term of imprisonment not exceeding one year. Communicating with arriving conveyances.

Offering smuggled goods for sale.

174.—(1) If a person offers for sale, goods purported to be imported without payment of duty, or purported to be otherwise unlawfully imported, then, whether or not those goods were in fact chargeable with any duty or were so imported, the person so offering them for sale commits an offence, and is liable, on summary conviction, to a fine not exceeding twenty-five thousand dollars or equivalent to three times the value of the good, whichever is greater.

(2) Any goods in respect of which an offence is committed under this section are liable to forfeiture.

Special penalty where offender is armed or disguised.

175.—(1) If a person concerned in the movement or carriage of goods—

- (a) performs any act contrary to, or for the purpose of contravening any prohibition or restriction in force under any enactment with respect to the importation, exportation or carriage coastwise of goods;
- (b) is armed with any offensive weapon or disguised in any way; or
- (c) any person so armed or disguised, is found in Grenada in possession of any article that is liable to forfeiture under any customs enactment,

that person commits an offence, and is liable, on summary conviction to a fine not exceeding one hundred thousand dollars, or equivalent to three times the value of the goods, whichever is greater, or to a term of imprisonment not exceeding five years.

(2) Any goods in respect of which an offence is committed under this section, are liable to forfeiture, notwithstanding anything contained in any enactment to the contrary.

176.—(1) Notwithstanding anything contained in any enactment to the contrary, a person who knowingly— False declarations.

- (a) makes or signs, or causes to be made or signed, any declaration, notice, certificate or other document; or
- (b) submits or causes to be submitted to the Comptroller or a proper officer, any declaration, notice, certificate or other document; or
- (c) makes any statement in answer to any question put to him by a proper officer that he is required under any written law to answer, which is false in a particular material,

commits an offence, and is liable, on summary conviction to a fine not exceeding one hundred thousand dollars, or equivalent to five times the value of the goods, whichever is greater, or to a term of imprisonment not exceeding five years.

(2) Where by reason of an act described in sub-section (1), the full amount of duty payable is not paid, or any overpayment is made in respect of any drawback, allowance, rebate or payment of duty, the amount of duty unpaid or of the overpayment, shall be payable immediately to the Comptroller, and may be recovered accordingly.

(3) Any goods in respect of which an offence is committed under this section are liable to forfeiture.

Counterfeiting
documents.

177.—(1) A person who—

- (a) with respect to a document that is required under any customs enactment, or that is used in the transaction of any business relating to an assigned matter—
 - (i) counterfeits or falsifies that document;
 - (ii) knowingly accepts, receives or uses any such document so counterfeited or falsified; or
 - (iii) alters any such document after it has been officially issued;
- (b) counterfeits any seal, stamp, signature, initials or other mark of, or used by, a proper officer for the verification of a document or for the security of goods or for any other purpose relating to an assigned matter,

commits an offence, and is liable, on summary conviction to a fine not exceeding one hundred thousand dollars or equivalent to five times the value of the goods, whichever is greater or to a term of imprisonment not exceeding five years.

(2) Any goods in respect of which an offence is committed under this section are liable to forfeiture.

178.—(1) A person who, where required by any customs enactment to provide scales, knowingly provides scales that do not give a true reading, commits an offence, and is liable, on summary conviction, to a fine not exceeding twenty-five thousand dollars. False scales.

(2) In connection with the weighing, counting, gauging or measuring of an article for the purpose of taking account of the goods or conducting an examination by a proper officer, if—

- (a) any person referenced in sub-section (1); or
- (b) any person by whom or on whose behalf the article is or is to be weighed, counted, gauged or measured,

performs any act that may prevent or hinder the officer from taking a true account, or making a proper examination, that person commits an offence and is liable, on summary conviction, to a fine not exceeding ten thousand dollars.

(3) For the purpose of this section, “scales” includes weights, measures and weighing or measuring machines or instruments.

179.—(1) Without prejudice to any other customs enactment, if a person, with fraudulent intent— Fraudulent evasions.

- (a) knowingly acquires possession of any—
 - (i) goods which have been unlawfully removed from a customs warehouse or a customs place;

- (ii) goods which are chargeable with any duty that has not been paid; or
 - (iii) goods, with respect to the importation, exportation or carriage coastwise of which any prohibition or restriction is in force under any written law; or
- (b) is in any way knowingly concerned with smuggling, unloading, landing, carrying, removing, depositing, harbouring, keeping or concealing of goods,

that person commits an offence, and is liable, on conviction on indictment, to a fine not exceeding one hundred thousand dollars, or equivalent to five times the value of the goods, whichever is greater, or to a term of imprisonment not exceeding five years.

(2) Without prejudice to any other customs enactment, where a person is, in relation to goods, in any way knowingly concerned in a fraudulent evasion or attempt at evasion of—

- (a) any duty chargeable on such goods; or
- (b) any prohibition or restriction in force with respect to the importation, exportation or carriage coastwise of those goods under or by virtue of any written law,

that person commits an offence, and is liable, on conviction on indictment, to a fine not exceeding one hundred thousand dollars or equivalent to three times the value of the goods, whichever is greater, or to a term of imprisonment not exceeding five years.

(3) Any goods in respect of which an offence is committed under this section are liable to forfeiture.

180.—(1) A person who—

Vessels and
vehicles.

- (a) without lawful authority, acquires possession or control of an uncustomed vehicle or vessel;
- (b) forges, alters or tampers with a vehicle identification number, licence plate or other identification mark of a vehicle or hull mark or other marks of a vessel, with intent to conceal its true identity; or
- (c) knowingly or recklessly acquires possession of such a vessel or vehicle,

commits an offence, and is liable, on conviction on indictment, to a fine not exceeding one hundred thousand dollars or equivalent to three times the value of the goods, whichever is greater, or to a term of imprisonment not exceeding five years.

(2) A vehicle or vessel in respect of which an offence is committed under this section is liable to forfeiture.

181.—(1) Where, in pursuance of a power conferred by a customs enactment, a lock, seal or mark is used to secure or identify any goods or place or container in which goods are kept, then if, without the authority of the proper officer—

Removing
locks, seals
or marks.

- (a) that lock, seal or mark is removed or tampered with by any person; or
- (b) at any time before the lock, seal or mark is lawfully removed, any goods are willfully removed, or any additional goods are inserted by any person,

that person, and any other person then in charge of the goods, each commits an offence, and each is liable, on conviction on indictment to a fine not exceeding one hundred thousand dollars or equivalent to three times the value of the goods, whichever is greater, or to a term of imprisonment not exceeding five years.

(2) Any goods in respect of which an offence is committed under this section are liable to forfeiture.

(3) For the purposes of subsection (1), goods in a conveyance shall be deemed to be in the charge of the master, commander or driver of that conveyance.

Penalty for persons acting jointly to evade customs enactment.

182. Where two or more persons jointly conspire for the purpose of evading any provision of this Act or any other customs enactment or, having so jointly conspired, evade any such provision, each person commits an offence, and each is liable, on summary conviction, to a term of imprisonment not exceeding one year.

Intermeddling with goods found floating, etc.

183.—(1) A person other than a proper officer or a person otherwise authorised by law to do so, who—

- (a) interferes with or picks up goods, including spirits, that are prohibited or restricted from being imported or exported, found floating upon or sunk into the sea; and
- (b) fails to report such goods within a reasonable time, to a proper officer or to a member of the Police Force,

commits an offence, and is liable, on summary conviction to a fine not exceeding ten thousand dollars.

(2) Any goods or spirits in respect of which an offence is committed under this section, are liable to forfeiture.

184. Where any conveyance or goods become liable to forfeiture under a customs enactment, a person who is knowingly concerned in the act or omission, which causes the conveyance or goods to become liable to forfeiture, commits an offence, and is liable, on summary conviction, to a fine not exceeding twenty-five thousand dollars or equivalent to five times the value of the item seized, whichever is greater.

Penalty in cases of forfeiture.

185.—(1) Where a person—

- (a) without the authority of a proper officer; and
- (b) without just and sufficient cause,

Offences in relation to warehouses.

opens any door or lock of a customs warehouse, or creates or obtains access to any customs warehouse, or to goods in a customs warehouse, that person commits an offence, and is liable, on conviction on indictment, to a fine not exceeding one hundred thousand dollars or to a term of imprisonment not exceeding two years.

(2) Goods shall be liable to forfeiture when goods which have been—

- (a) entered for warehousing, are taken into a warehouse without the authority of, or otherwise than in accordance with, any direction given by the proper officer;
- (b) entered for warehousing, are removed without being warehoused or are otherwise not warehoused, unless otherwise permitted under this Act;
- (c) deposited in customs warehouse, are unlawfully removed or are unlawfully loaded into a conveyance for removal or for exportation or for use as stores;

- (d) entered for warehousing, are concealed, either before or after they have been warehoused; or
- (e) lawfully permitted to be removed from a customs warehouse without payment of duty, and for any purpose, are not delivered to the destination to which they should have been taken in accordance with that permission.

(3) A person who is in any way concerned with the actions described in subsection (2) commits an offence, and is liable, on summary conviction, to a fine not exceeding twenty-five thousand dollars, or equivalent to three times the value of the goods, whichever is greater.

(4) A person who is in any way concerned with the actions described in subsection (2), with intent to—

- (a) defraud the State of Grenada of any duty chargeable on those goods; or
- (b) evade any prohibition or restriction in force with respect to those goods under any written law,

commits an offence, and is liable, on conviction on indictment, to a fine not exceeding one hundred thousand dollars or equivalent to three times the value of the goods, whichever is greater, or to a term of imprisonment not exceeding five years.

General penalty
and limit of
penalty.

186. Unless otherwise provided, a person who commits an offence against any customs enactment for which no specific penalty is provided, is liable, on summary conviction to a fine not exceeding twenty-five thousand dollars.

PART XV**FORFEITURE AND SALE OF GOODS**

187.—(1) Any goods liable to forfeiture under this Act or any other customs enactment, may be seized or detained by a proper officer or police officer. Detention, seizure and forfeiture of goods.

(2) Anything liable to forfeiture under a customs act—

- (a) may be seized or detained in any place by a proper officer or police officer; and
- (b) if seized or detained shall be delivered to the Comptroller immediately, unless the article is or may be required for use in connection with proceedings to be brought under a law, other than a customs enactment.

(3) Where—

- (a) the person seizing or detaining anything liable to forfeiture under a customs enactment, is a police officer; and
- (b) that article is required for use in connection with proceedings that may be brought under a law other than a customs enactment,

the article may be retained in the custody of the police, until either those proceedings are completed, or it is decided that no such proceedings will be brought.

(4) Where the article may be required for use in connection with proceedings that may be brought under a law other than a customs enactment, notice in writing, of the seizure or detention, with full particulars of the articles seized or detained, shall be given to the Comptroller immediately.

(5) Where an article is retained in the custody of the police officer under sub-section (3), a customs officer is authorised to examine it and take account of it while it remains in such custody.

Forfeiture of conveyances used in connection with goods liable to forfeiture.

188.—(1) Where an article has become liable to forfeiture under any customs enactment—

- (a) any conveyance, animal, container, which includes any article of passenger's baggage or any other article that has been used for the carriage, handling, deposit or concealment of the article liable to forfeiture, either at the time when the article was in the commission of the offence for which it later became liable to forfeiture, or after it became liable to forfeiture; and
- (b) any other article mixed, packaged or found with the article liable to forfeiture,

is also liable to forfeiture.

(2) Where a conveyance is or has been within the territorial waters of Grenada, or within the land borders of Grenada and is constructed, adapted, altered or fitted in any manner for the purpose of concealing goods, such conveyance is liable to forfeiture.

(3) If, at any time while a vessel is within the territorial waters of Grenada, any part of its cargo, or any article carried on board, is thrown overboard or is staved or destroyed to prevent seizure, that vessel is liable to forfeiture.

(4) Where—

- (a) any conveyance has imported cargo on board for Grenada, and a substantial part of that cargo is afterwards found to be missing; and
- (b) if the master or commander or his agent is unable to account for that missing cargo to the satisfaction of the Comptroller,

that conveyance is liable to forfeiture.

(5) Where any conveyance has become liable to forfeiture, all tackle, apparel or furniture belonging to it is also liable to forfeiture.

189.—(1) Notwithstanding any customs enactment, a vessel of two hundred and fifty or more tons burden, shall not be liable to forfeiture, unless the offence in respect of or in connection with which the forfeiture is sought—

Special provisions as to forfeiture of large vessels.

- (a) was the primary purpose of the voyage of the vessel during which the offence was committed; or
- (b) was committed while the vessel was under chase after refusing to stop when required to do so.

(2) Where—

- (a) any vessel of two hundred and fifty or more tons burden would, but for sub-section (1), be liable to forfeiture for or in connection with an offence under any customs enactment; and
- (b) in the opinion of the Comptroller, a responsible officer, including the master, mate or engineer of the vessel or, in the case of a vessel carrying a passenger certificate, the pursuer or chief steward, is implicated by his own act or by neglect in the commission of the offence,

that person is liable, on conviction on indictment, to a fine not exceeding two hundred and fifty thousand dollars, and until that fine is paid, the Comptroller may withhold clearance of that vessel.

(3) No claim shall be brought against the Comptroller for damages in respect of the detention of any vessel, under this section.

(4) The exemption from forfeiture of any vessel under this section, shall not affect the liability to forfeiture of any goods carried on board that vessel.

Sale of certain
seized goods.

190.—(1) This section applies to—

- (a) a living creature;
- (b) any goods which is of a perishable nature;

- (c) any goods which, in the opinion of the Comptroller, is likely to deteriorate or diminish in value during storage;
- (d) any goods which, in the opinion of the Comptroller, are desirable to sell immediately; or
- (e) any goods which, in the opinion of the Comptroller, is likely to create a health or safety risk, if stored in the premises by Customs.

(2) Where a living creature or any other article to which this section applies has or have been seized, as being liable to forfeiture—

- (a) the Comptroller may sell or destroy the article seized before its condemnation; and
- (b) the net proceeds of sale are deemed substituted for the article sold and the provisions of this Part, so far as they are applicable, extend and apply to such proceeds.

191.—(1) The Comptroller shall sell by public auction or tender any goods—

Sale of goods condemned as forfeited.

- (a) condemned as forfeited; or
- (b) deemed to have been condemned as forfeited,

in accordance with the forfeiture rules as set out in Schedule IV, unless the goods are prohibited or restricted goods.

(2) An auction under this section shall be advertised in the *Gazette* or in such other manner as the Comptroller thinks fit, not less than seven days before it is due to take place.

(3) The Comptroller shall, in writing, authorise a person to act as auctioneer at an auction under this section.

(4) A person is disqualified from bidding for anything at an auction under this section if the person—

- (a) is a customs officer; or
- (b) has or had an interest in the article being auctioned.

(5) A person who makes a bid in contravention of sub-section (4), commits an offence, and is liable, on summary conviction, to a fine not exceeding ten thousand dollars.

(6) The proceeds of the sale of any article at an auction under this section shall be applied as follows—

- (a) firstly, to pay any duty payable in respect of the article;
- (b) secondly, to pay all the charges incidental to the sale, warehousing and carriage of article;
- (c) thirdly, to pay all the charges incidental to the seizure of the article or to any condemnation proceedings respecting the article; and

- (d) lastly, if any excess remains after the payments referred to in paragraphs (a), (b) and (c) have been made, such excess shall be paid by the Comptroller into the Consolidated Fund.

(7) The value for duty of anything sold at auction under this section, shall be the price realized less the included duty, if any.

(8) Any goods not sold at an auction under this section, and all prohibited or restricted goods condemned or deemed to be condemned as forfeited, may be destroyed or otherwise disposed of as the Comptroller may direct.

(9) Nothing in this section prevents the Comptroller from authorizing the withholding from sale of anything condemned or deemed to be condemned as forfeited, and its use by Customs, subject to the approval of the Minister.

192.—(1) Where anything that is not condemned or deemed to be condemned as forfeited, is required by or under this Act or any other customs enactment, to be sold, it shall, unless it is of a perishable nature, be sold at a public auction.

Sale of
goods not
condemned.

(2) An auction under this section shall be advertised in the *Gazette* not less than seven days before it is due to take place.

(3) The Comptroller shall appoint a person, who may be a customs officer, to act as auctioneer at any auction under this section.

(4) The proceeds of sale of any article at an auction under this section, shall be applied as follows—

- (a) firstly, to pay any duty payable on the article;
- (b) secondly, to pay all the charges incidental to the sale, warehousing and carriage of the article; and
- (c) lastly, if any excess remains after the payments in paragraphs (a) and (b) have been made, such excess shall, where an application is made within six months of the sale, be paid over to any person who satisfies the Comptroller that he was the owner of that article at the time of its sale.

(5) The value for duty of anything sold under this section shall be the price realized less the original duty assessed.

(6) The Comptroller shall sell any article which is of a perishable nature, in such manner, as appears to him, most likely to realize the largest sum.

(7) Where an article or item to which this section applies cannot be sold at an auction under this section; or by the Comptroller under subsection (6), the article or item may be destroyed or otherwise disposed of as the Comptroller may direct.

(8) A sale by auction under this section may take place at the same time and place as a sale under section 191.

193.—(1) Where any goods have been seized, the proper officer shall, as soon thereafter as is reasonably practicable in the circumstances, give notice in writing, of the seizure and the reasons for the seizure, in the prescribed form, to any person known or believed to have interest in the goods, or where that person is overseas, to his agent in Grenada. Notice of seizure.

(2) Notwithstanding sub-section (1), a seizure is not invalidated or rendered illegal by reason of any failure to give such notice, if the proper officer proves that reasonable steps were taken to give the notice.

194.—(1) Where any goods have been seized as being liable to forfeiture, unless the goods are prohibited goods, the Comptroller may, at any time before their condemnation, deliver the goods to the owner or other person from whom they were seized, on the deposit with the Comptroller, of a sum of money equal to the aggregate value of the goods, together with any duty to which the goods may be liable as determined by the Comptroller. Delivery of goods seized on deposit of value.

(2) The money deposited shall be deemed substituted for the goods seized, and all the provisions of this Part so far as they are applicable, apply to the money accordingly.

195.—(1) Where, in any proceedings against the State or the Comptroller against the condemnation of any goods seized, as being liable to forfeiture under any customs enactment, judgment is given for the claimant, the court may, if it sees fit, certify that there were reasonable grounds for the seizure of the goods. Protection of State/Comptroller seizing or detaining goods.

(2) Where proceedings described in sub-section (1) are brought and judgment is given for the claimant or prosecutor, then if either—

- (a) a certificate relating to the seizure has been granted under sub-section (1); or
- (b) the Court is satisfied that there were reasonable grounds for seizing or detaining the article,

the Claimant or prosecutor shall not be entitled to recover any damage or costs, and the defendant shall not be liable to any punishment.

(3) Nothing in sub-section (2) affects the rights of any person to the return of the article seized or detained or to compensation for any damage to the article during the detention or destruction of it.

(4) A certificate under sub-section (1) may be proved by the production of the original certificate or a certified copy of the certificate, purporting to be signed by an officer of the court by which it was granted.

Application for
order disal-
lowing seizure.

196.—(1) A person claiming an interest in goods seized as being liable to forfeiture, may, within twenty-eight working days after the date on which a notice is given to that person under section 193, or within such further time as the Court may allow, apply to the Court for an order—

- (a) disallowing the seizure in whole or part, and the goods are to be returned; and

- (b) that the State is to pay to the claimant a sum, as compensation for any depreciation in the value of the goods resulting from the seizure or detention, and for any transport and storage costs, as the Court thinks fit, and any such order may be issued upon and subject to such terms and conditions as the Court thinks fit.

197.—(1) Where an application is made under section 196, the Court may either dismiss the application or issue an order— Court may disallow seizure.

- (a) that the seizure is to be disallowed in whole or in part, and the goods are to be returned; and
- (b) that the State is to pay to the applicant a sum, as compensation for any depreciation in the value of the goods resulting from the seizure or detention, and for any transport and storage costs, as the Court thinks fit, and any such order may be issued upon and subject to such terms and conditions as the Court thinks fit.

(2) Where the Court issues an order dismissing the application, that order is deemed to be an order for condemnation of the goods to the State.

(3) The Courts shall not issue an order disallowing the seizure of goods, if the court is of the opinion that—

- (a) the goods are required to be produced in evidence to any proceeding pending under this Act; or

- (b) there are proceedings pending that may result in condemnation of the goods.

(4) The Court shall not issue an order for the payment of compensation except—

- (a) in respect of goods which, in the opinion of the Court, were seized or detained without reasonable cause; and
- (b) to the extent that the Court disallows the seizure.

(5) Where the Court issues an order for the payment of any sum as compensation to any person under this section, the sum so awarded is recoverable by that person as a debt due from the State.

Application for order disallowing seizure where notice not received.

198.—(1) Except where the goods have already been condemned to the State, any person claiming an interest in goods seized as being liable to forfeiture under this Act, who did not receive notice under section 193, may within twenty-eight days after the date on which the goods were seized, apply to the court for an order—

- (a) of a kind specified in section 197 where the goods seized have not been sold, destroyed or otherwise disposed of; or
- (b) for payment of compensation by the State for the whole or part of any loss suffered by the Claimant, where the goods seized have been sold, destroyed or otherwise disposed of.

(2) The Court may dismiss the application under subsection (1) or issue an order—

- (a) of the kind specified in section 197, where the goods seized have not been sold, destroyed, or otherwise disposed of; or
- (b) that compensation of such amount as the Court thinks fit, be paid by the State to the Claimant, for the whole or any part of any loss suffered by the applicant, where the goods seized have been sold, destroyed, or otherwise disposed of.

(3) The Court shall not issue an order respecting the payment of compensation except—

- (a) in respect of goods which, in the opinion of the Court, were seized or detained without reasonable cause; and
 - (b) to the extent that the Court disallows the seizure.
- (4) Where the Court issues an order dismissing the application, that order is deemed to be an order for condemnation of the goods to the State, unless the goods have already been condemned in proceedings brought under section 200.

(5) Without limiting the generality of sub-section (2), the Court may dismiss an application under sub-section (1), if the application was not made as soon as reasonably practicable after the applicant became aware of the seizure of the goods.

Condemnation if no appeal against seizure.

199. Where no application is made under section 196 within the time specified in that section, the goods shall be deemed condemned to the State as if such an application had been made and dismissed.

Condemnation if application discontinued.

200. Where an application under section 196 or 198 is not completed, the goods are condemned to the State as if that application had been dismissed.

Condemnation of seized goods on conviction.

201.—(1) Subject to sub-section (2), where this Act provides that on the commission of any offence any goods are liable to forfeiture, the conviction of any person for that offence has effect as a condemnation, without suit or judgment, of any goods which—

- (a) have been seized in accordance with this Act in respect of which the offence was committed; or
- (b) were otherwise liable to forfeiture under this Act.

(2) Subject to sub-section (4), where the Court imposes a sentence on any person on the conviction of that person for an offence to which subsection (1) applies—

- (a) the Court may, if it thinks fit, order the restoration of the goods forfeited to the person from whom the goods were seized; and

- (b) where such an order is issued, the conviction does not have effect as a condemnation of those goods.

(3) In issuing an order pursuant to sub-section (2), the Court may impose such conditions as it thinks fit.

(4) Subsection (2) does not apply, if before the conviction of the person for the offence, the goods have been—

- (a) sold at public auction;
- (b) restored to the person from whom they were seized; or
- (c) otherwise disposed of by the Comptroller under any other provision of this Act.

202.—(1) The State has the property right to forfeited goods or to the proceeds of sale under section 190, 191 or 192. Disposal of forfeited goods.

(2) Where goods have been condemned, such goods may be sold by public auction, used, destroyed, or otherwise disposed of after their condemnation as the Comptroller may direct.

203. Except where this Act expressly provides otherwise, the provisions of this Act with respect to the forfeiture of goods, extend and apply to any conveyance or other article forfeited under this Act. Application of forfeiture provisions.

PART XVI**CUSTOMS PROCEEDINGS**

Appeal to
Comptroller.

204.—(1) Where the amount of duty demanded, or any decision of the Comptroller under this Act is disputed by the importer, a deposit or security shall be paid by the importer under protest, and the importer may, within thirty days from the date of payment, file a written protest in respect of that entry, requesting that the Comptroller reconsider the disputed decision.

(2) A request made under sub-section (1) shall—

- (a) state the grounds for disputing the amount of duty demanded; and
- (b) outline the further documentation of information on which the request is based.

(3) The Comptroller, after investigating the matter within thirty days of receiving the written protest, and taking into account any further submissions of the importer or his agent, may confirm the original assessment or substitute a new assessment for the original assessment, resulting in an increase, a decrease or a confirmation of the amount of duty originally determined to be due.

(4) Subject to sub-section (3) the period of thirty days may be extended in circumstances where there is need for the Comptroller to gather further information to assess the amount of duties due or for any other purpose the Comptroller deems necessary for the purposes of this Act.

PART XVII**CUSTOMS APPEAL COMMISSION**

205.—(1) There is hereby established a body to be known as the Customs Appeal Commission, for the purpose of hearing appeals under this Part. Customs Appeal Commission.

(2) The Minister shall, by notice in the *Gazette*, appoint persons who—

- (a) have experience in customs matters; or
- (b) in the opinion of the Minister, by reason of their profession and training, are qualified to be Commissioners.

(3) The provisions of Schedule V shall have effect with respect to the constitution of the Commission and other matters relating to the Commission.

206. Where this Act provides for an appeal of a decision of the Comptroller, made in response to a request for reconsideration of a decision of the Comptroller under section 204, a person who is dissatisfied with a decision of the Comptroller on reconsideration, has a right of appeal against that decision to the Customs Appeal Commission within twenty-one days. Appeal to Customs Appeal Commission.

207.—(1) The procedures of the Commission shall be in accordance with Schedule V. Procedure.

(2) Proceedings before the Commission shall be commenced by the lodging of an application in the prescribed form, together with the prescribed fee, if any, with the Commission.

Nature of appeal. **208.** Every appeal to the Commission shall be by way of a hearing *de novo*.

Commission may extend time for appeal. **209.** Where under this Act a person is entitled to appeal to the Commission within a specified time, the Commission may, on an application made within the specified time, extend the time within which the appeal may be brought.

Hearing. **210.—(1)** Subject to section 211, as soon as the Commission considers that an appeal is ready to be heard, the Commission shall fix a date, time, and place for the hearing of the appeal, and shall notify the appellant and the Comptroller of the date, time, and place fixed.

(2) A notice to the appellant under sub-section (1)–

- (a) shall, in addition to the matters referred to in sub-section (1), inform the appellant of the provisions of subsections (5) and (6); and
- (b) shall be served on the appellant by personal service or by post, in accordance with this Act.

(3) At the hearing of an appeal before the Commission, the appellant and the Comptroller may provide evidence, and shall be given an opportunity to be heard, either in person or by a person authorised by the appellant or the Comptroller to appear on his behalf, without regard to whether that person is an attorney-at-law.

(4) Where the appellant or the Comptroller, or both, fail to appear before the Commission at the time appointed, the Commission may nevertheless, upon proof of service of the notice of the hearing, proceed to determine the appeal.

(5) Subject to sub-section (6), the hearing of an appeal before the Commission shall be in public.

(6) The Commission may hold a hearing or any part of a hearing in private, if the Commission is of the opinion that it is proper to do so, having regard to the interests of any party and to the public interest.

(7) The Commission may, subject to such conditions as the Commission thinks fit, order, that any part of any evidence given or the name of any witness be not published.

211.—(1) Notwithstanding section 210, the Commission may, if it thinks fit and if both parties consent, decide an appeal without the holding of an oral hearing.

Commission may decide appeal without oral hearing if both parties consent.

(2) Where the Commission, at any time during its consideration of an appeal in accordance with sub-section (1) decides, that an oral hearing should be held, the Commission shall fix a date, time and place for the hearing of the appeal in accordance with section 210.

212. For the purpose of a hearing and deciding any appeal before it, the Commission shall have—

Commission's powers.

- (a) all the powers, duties, functions and discretions of the Comptroller in making its decision; and
- (b) all the powers of the High Court in the exercise of its civil jurisdiction, in respect of citing parties and conducting and maintaining order at the hearings of the Commission.

213. The Commission may, in respect of its proceedings—

Evidence.

- (a) take evidence on oath;

- (b) permit a person appearing as a witness before it, to give evidence by tendering a written statement and verifying it by oath; and
- (c) receive as evidence, any statement, documents, which information or matter in the opinion of the Commission, may assist to deal effectually with the proceedings.

Powers of investigation.

214.—(1) For the purposes of dealing with the matters before it, the Commission, or any person authorised by the Commission in writing to do so, may—

- (a) inspect and examine any papers, documents, records, or articles;
- (b) require any person to—
 - (i) produce for examination, any papers, documents, records, or articles in that person's possession or under that person's control;
 - (ii) allow copies of or extracts from any such papers, documents, or records to be made; and
- (c) require any person to furnish, in a form approved by or acceptable to the Commission, any information or particulars that may be required by it.

(2) The Commission may, if it thinks fit, require that any written information or particulars or any copies or extracts furnished under this section, be verified by statutory declaration or otherwise.

(3) For the purposes of dealing with the matters before it, the Commission may—

-
- (a) of its own motion, or on application, order that any information or particulars, or a copy of the whole or part of any paper, document, or record, furnished or produced to it, to be supplied to any person appearing before the Commission; and
 - (b) in the order, impose such terms and conditions as it thinks fit, in respect of the production of and use that is to be made of the information.

(4) Every person shall have the same privileges in relation to the giving of information to the Commission, the answering of questions put by the Commission, and the production of papers, documents, records, and articles to the Commission, as witnesses have in Courts of law.

215. For the purposes of dealing with the matters before it, the Commission may, of its own motion, or on application, issue in writing, a summons, requiring any person to— Power to summon witnesses.

- (a) attend at the time and place specified in the summons, and to give evidence; and
- (b) produce any papers, documents, records, or articles in that person's possession or under that person's control, that are relevant to the matters before the Commission.

216.—(1) A summons by the Commission to a witness shall be served by— Service of summons by the Commission.

- (a) delivering it to the person summoned, at least forty eight hours before the attendance of the witness is required; or
- (b) sending it by registered post, addressed to the person summoned at that person's usual place of

residence or business, at least ten days before the date on which the attendance of the witness is required.

(2) Where the summons is delivered by registered post, it shall be deemed for the purposes of sub-section (1) (b), to have been served at the time when the letter would be delivered in the ordinary course of post.

Protection of
persons
appearing.

217. Every witness giving evidence, and every counsel or agent or other person appearing before the Commission, shall have the same privileges and immunities as witnesses and counsel in a Court of law.

Grounds of
appeal and
burden of proof.

218.—(1) Subject to subsection (2), in an appeal, the appellant is limited to the grounds stated in the appellant's notice of appeal, and the burden of proof is on the appellant.

(2) The Commission may, either on the application of the appellant or of its own motion, amend the grounds stated in the notice of appeal.

Sittings of
Commission.

219.—(1) Sittings of the Commission shall be held at such times and places as the Commission determines.

(2) The Commission may adjourn a sitting or modify the place of a sitting, either before the time of the sitting or at the sitting.

Commission
may dismiss
frivolous or
vexatious
appeal.

220. The Commission may, at any time, dismiss an appeal if it is satisfied that the appeal is frivolous or vexatious.

Decision of
Commission.

221.—(1) Every decision of the Commission shall be given in writing, with a statement of the reasons for the decision.

(2) A copy of the decision shall be given to the parties to the appeal.

PART XVIII

COURT PROCEEDINGS

222.—(1) A party who is dissatisfied with a decision of the Commission under this Act, as being erroneous in point of law, and including a question of mixed fact and law, may appeal to the High Court.

Appeals to High Court.

(2) Every appeal under this section shall be made by filing a notice of appeal within twenty working days after the date of the decision appealed against, or within such further time as the Court may allow.

(3) Where a notice of appeal is filed in accordance with sub-section (2), the appellant shall within the time in that subsection, serve a copy of the notice on the Commission.

223.—(1) The Commission may, on the application of the appellant or the Comptroller or of its own motion, state a case for the opinion of the High Court, on any question of law arising in respect of any appeal that was heard before the Commission.

Stating case for High Court.

(2) The Commission shall give notice to the Comptroller and the appellant, of the Commission’s intention to state a case under this section.

224.—(1) After exhaustion of all appeal proceedings available before the Comptroller and the Customs Appeal Commission, and subject to any express provisions to the contrary in any customs enactment, a disputed matter involving a customs enactment may be prosecuted in Court.

Prosecution for customs offences.

(2) Subject to the powers of the Director of Public Prosecutions under the Constitution and to sub-section (4), proceedings for an offence under any customs enactment, or for condemnation, shall not be commenced except—

- (a) by Order of the Comptroller in writing; and
- (b) in the name of the proper officer.

(3) In the case of the death, removal, discharge or absence of the officer in whose name any proceedings were commenced by virtue of subsection (2) (b), those proceedings may be continued by any officer authorised to act on his behalf by the Comptroller.

(4) Notwithstanding subsection (2), where a person has been arrested for an offence under any customs enactment, any court before which he is brought, may deal preliminary with the case against him.

Appeal to Court
of Appeal.

225. A party who is dissatisfied with a decision of the High Court as being erroneous in point of law may appeal to the Court of Appeal.

Place of offence.

226. An offence under any customs enactment shall be regarded as having been committed, and every cause of complaint as having arisen, either—

- (a) in the place in which the offence was actually committed or arose; or
- (b) in any place on land, where the offender or person prosecuted may be or may be brought.

227. Proceedings for an offence under any customs enactment may be commenced— Place of trial.

- (a) in any court having jurisdiction in the place—
 - (i) where the offence was committed;
 - (ii) subject to sub-paragraph (iii), where a person charged with the offence resides or is found; or
 - (iii) if the person charged with the offence is a corporate body, where that corporate body has its registered or principal office; or
- (b) if anything was detained or seized or found in connection with the offence, in any court having jurisdiction in the place where the thing was detained, seized, found or condemned as forfeited.

228. Unless otherwise provided in this Act, and notwithstanding any other enactment, proceedings in respect of an offence committed under this Act or enactment, may be commenced at any time within seven years after the date of the commission of the offence. Time limit on proceedings.

229. The fact that customs duties have been secured by bond or otherwise, shall not be pleaded or made use of, in answer to or in stay of proceedings under any customs enactment. Limitation as to pleading.

Officer may
prosecute.

230. An officer or other person authorised by the Comptroller, although not an attorney-at-law, may conduct proceedings in relation to an assigned matter under any customs enactment in respect of any offence.

Alternative
prison sentence.

231. Where—

- (a) a court has imposed a fine for an offence against a customs enactment; and
- (b) such fine is not paid within thirty days of the date of its imposition, the court may notwithstanding anything contained in any other enactment, order the defendant who was convicted of the offence, to be imprisoned for—
 - (i) a term not exceeding three years where the fine does not exceed fifty thousand dollars; or
 - (ii) a term not exceeding five years where the fine exceeds fifty thousand dollars.

Imprisonment
for second
offence.

232. Subject to this Act, and any other law imposing a sentence of imprisonment for an offence under this Act, where—

- (a) a defendant is liable, on summary conviction to a fine of twenty-five thousand dollars or more, for an offence under this Act or any customs enactment; and
- (b) such defendant has previously incurred a fine or forfeiture under this Act, or any other enactment which has been enforced in any court,

the court may, if it thinks fit, in *lieu* of ordering payment of a fine, order the defendant to be imprisoned for a period not exceeding five years.

233.—(1) In proceedings for an offence under this Act or any other customs enactment, a court in which the matter is considered, may mitigate any pecuniary penalty as it sees fit. Incidental provisions as to legal proceedings for offences.

(2) It is not a defence in any proceedings for an offence or for the condemnation of an article as being forfeited under this Act, or any other customs enactment, that security has been given by bond or otherwise, for the payment of any duty or compliance with any condition.

234.—(1) Notwithstanding anything to the contrary in the Civil Procedure Act, proceedings for the recovery of rents, charges, expenses, duties, penalties and all other sums of money payable under a customs enactment may be sued for, determined, enforced and recovered by suit or other appropriate civil proceedings in a Magistrate’s Court, in the name of the Comptroller as nominal claimant. Institution of civil proceedings.

(2) The Magistrate’s Court is hereby vested with the necessary jurisdiction for the purpose of subsection (1), and, except as provided in this Act, the ordinary civil procedure of the Magistrate’s Courts of Grenada shall apply to proceedings under that subsection.

(3) For the avoidance of doubt—

- (a) civil proceedings brought in the name of the Comptroller, shall not be invalidated or lapse, by reason of any change in person holding the office of the Comptroller; and

- (b) where such change occurs, the civil proceedings may be continued in the name of the person, for the time being the holder of or acting in the office of Comptroller.

(4) Nothing in this section shall be construed, so as to prejudice or affect the right of the Attorney-General to institute civil proceedings on behalf of the State.

Service of
process.

235.—(1) Any summons or other process issued for the purpose of proceedings under a customs enactment, shall be deemed to have been duly served—

- (a) if delivered personally to the person to whom it is addressed; or
- (b) subject to paragraph (a), left at his last known place of abode or business of the person to whom it is addressed; and
- (c) in the case of a corporate body, left at its registered or principal office.

(2) A summons, notice, order or other document issued for the purposes of any proceedings under this Act or any other customs enactment, or of an appeal from the decision of the court in such proceedings, may be served by a proper officer.

(3) For the purposes of this section, the expression “appeal” includes an appeal by way of case stated.

Costs.

236. In proceedings under this Act or any other customs enactment, the same rules as to costs shall be observed, as in proceedings between private persons.

237.—(1) Where a decision of the Comptroller, the Customs Appeal Commission or of the High Court is made— Payment of duty after appeal.

- (a) that the amount of duty should be increased, the appellant shall pay the amount of the increase to the Comptroller; or
- (b) that the amount of duty should be decreased, the Comptroller shall pay the amount of the decrease to the appellant,

within thirty days of the decision, unless the decision has been further appealed.

(2) If the amount due under subsection (1) is not paid within thirty days of the decision, interest shall apply at a rate prescribed by regulations, calculated from the date the payment was due to the date the payment is made.

PART XIX

PROOF IN PROCEEDINGS

238.—(1) This section applies to proceedings respecting Burden of proof. intent to defraud the revenue of Customs.

(2) In any proceedings under this Act instituted by or on behalf of or against the State, other than a prosecution of an individual for an indictable offence, every allegation made on behalf of the State or against the State in any statement of claim, statement of defence, plea, or information which relates to—

- (a) the identity or nature of any goods;

- (b) the value of any goods for duty;
- (c) the country or time of exportation of any goods;
- (d) the fact or time of the importation of any goods;
- (e) the place of manufacture, production, or origin of any goods; or
- (f) the payment of any duty on goods,

shall be presumed to be true, unless the contrary is proved.

(3) Notwithstanding the foregoing provisions of this section, but subject to this Act, in any proceedings for an offence against this Act, where it is alleged that a defendant intended to commit the offence, the prosecution has the burden of proving that intent beyond a reasonable doubt.

Onus of proof
on defendant in
certain cases.

239. In any prosecution under this Act or any other customs enactment, the onus is on the defendant to prove, on a balance of probability, that—

- (a) the duties assessed have been paid; and
- (b) the goods were, where applicable—
 - (i) lawfully loaded into or unloaded from any conveyance;
 - (ii) lawfully transferred from one conveyance to another conveyance; and

(iii) lawfully imported or exported.

240.—(1) The averment that—

Averment in
proceedings.

- (a) goods thrown overboard, staved or destroyed were so dealt with to prevent or avoid their seizure;
- (b) a person is, or was appointed or authorised by the Comptroller to discharge;
- (c) a person was engaged by the orders or with the concurrence of the Comptroller in the discharge of, any duty;
- (d) a person is or was the Minister, the Comptroller, a customs officer or a police officer;
- (e) an offence was committed or an act was performed within the limits of a customs port, approved wharf, customs airport or other customs controlled area, or within the territorial waters of Grenada;
- (f) the Comptroller is or not satisfied as to any matter as to which he is required by a customs enactment to be satisfied; or
- (g) that the proceedings were instituted by an Order of the Comptroller,

is sufficient evidence of the matter in question, until the contrary is proved.

(2) Where in the proceedings brought by or against a competent person, in respect of anything purporting to have been done in pursuance of a power or duty conferred on him under this Act or any other customs enactment, a question arises respecting any or all of the following—

- (a) the place from which the goods have been brought;
- (b) whether or not customs duty has been paid or secured in respect of goods;
- (c) whether or not goods are of the description or nature alleged in the information, writ or other process;
- (d) whether or not goods were unlawfully brought to any place for the purpose of being loaded into a conveyance or were exported; or
- (e) whether or not goods are or were subject to any prohibition or restriction on their importation, exportation or carriage coast-wise,

the burden of proof lies on the other party to the proceedings.

(3) For the purposes of this section “competent person” means—

- (a) the Comptroller;
- (b) the Director of Public Prosecutions;

- (c) the Attorney-General;
- (d) a customs officer;
- (e) a police officer; or
- (f) a proper officer.

241. If upon any trial, a question arises as to whether a person is a proper officer, his own evidence thereof shall be deemed sufficient, and any proper officer shall be deemed a competent witness upon the trial of any suit or information regarding a seizure or penalty, regardless of whether the officer may be entitled to a reward upon the conviction of the party in the suit. Evidence of officers.

242.—(1) A document which is purported to be signed by— Proof of certain documents.

- (a) the Minister or any other member of the Cabinet;
- (b) the Comptroller; or
- (c) a person with the authority or order of the Minister or other member of the Cabinet or the Comptroller,

is deemed to have been so signed, until the contrary is proved.

(2) The matters contained in any document referred to in subsection (1) may, in any proceedings under this Act or any other customs enactment, be proved by the production of that document or any document purporting to be a copy of that document.

(3) Where a book or other document is required to be kept by or under this Act or any other customs enactment, the production of that book or other document, or a copy of it certified as a true copy by a proper officer in proceedings under this Act or any other customs enactment, is *prima facie* evidence of the matters stated in it.

(4) In any proceedings under this Act or any other customs enactment, the production of a certificate purporting to be signed by the competent authority, shall be sufficient evidence of all matters stated in the certificate unless the contrary is proved.

Presumption of authenticity of documents.

243. All documents purporting to be sealed with the seal of the Customs Department, are, in all Courts and in all proceedings under this Act and any other Act, deemed to have been sealed with due authority, unless the contrary is proved.

Valuation of goods for penalty.

244.—(1) In all cases where the fine for an offence under a customs enactment is an amount that is to be determined by the value of goods, such value shall be determined in accordance with the Third Schedule.

(2) A certificate signed by the proper officer attesting to the value of the goods, shall be accepted by the court as *prima facie* evidence of the value of the goods.

Certificate of condemnation.

245. Condemnation by a Court under customs enactment may be proved in any Court, or before any competent tribunal, by the production of a certificate of condemnation purporting to be signed by the officer of the Court.

PART XX**AGENTS**

246.—(1) When a person makes an application to transact business on behalf of any other person, the proper officer may—

Authority to be produced.

- (a) require the person so applying, to produce an authority, whether written or electronic, from the person on whose behalf the application is made; and
- (b) in default of the production of such authority, may refuse to transact business on behalf of the other person with the purported agent.

(2) A document required by this Act or any other customs enactment to be signed by a particular person may, with the approval of the Comptroller, be signed by a person authorised by that person to sign on his behalf, and shall be deemed for all purposes to be signed by the person required to sign.

(3) The Comptroller may, for cause, refuse to allow any application referred to in sub-section (1), or revoke the acceptance of any application under sub-section (1).

247.—(1) A document produced under this Act by a person other than an individual, shall be signed by an individual authorised to do so by the governing body of that person.

Person other than individuals.

(2) Where the person in sub-section (1) has elected or appointed officers, the president, vice-president, secretary and treasurer or any other equivalent officers or the person, shall be deemed to be so authorised to sign a document referred to

in sub-section (1) save and except that there is evidence to the contrary.

Regulations as to Customs brokers.

248. The Minister may make regulations generally respecting Customs brokers.

Customs brokers.

249. For the purposes of this part, “Customs broker” means a person who is licensed by the Comptroller to transact business with Customs, including the submission of entries on behalf of other persons.

Gazetting of customs brokers.

250. The Comptroller shall cause to be published annually in the *Gazette*, an alphabetical list of persons who are licensed Customs Brokers.

Penalties.

251. A person who transacts or attempts to transact business as an agent without the authority of the principal, or as a Customs broker without holding a valid license issued by the Comptroller, or a person who assists or attempts to assist that person, commits an offence, and is liable, on summary conviction, to a fine not exceeding ten thousand dollars or equivalent to three times the value of the goods which occasioned the offence, whichever is greater.

Ship agents.

252. Where—

- (a) under a customs enactment a special procedure is prescribed in regard to a vessel; and
- (b) the owner of the ship is not resident or represented in Grenada,

it shall be the duty of the master of the ship to appoint an agent in Grenada for the purpose of performing any act, which under any customs enactment, must be performed by the owner of the ship.

PART XXI**MISCELLANEOUS**

253.—(1) Where liability for an offence under this Act or any other customs enactment, is incurred by two or more persons jointly— Joint and several liability.

- (a) each person is liable for the full amount of any fine or penalty prescribed; and
- (b) the persons committing the offence may be proceeded against jointly or severally.

(2) Where a corporation fails to pay duty required to be paid by this Act, the directors of the corporation at the time the corporation was required to pay the duty are jointly and severally liable, together with the corporation, to pay the duty and any penalties relating thereto.

254.—(1) In this section, “official” in relation to an unincorporated body means— Officials of unincorporated bodies.

- (a) in the case of a partnership, a partner of the partnership other than a limited partner;
- (b) in the case of a joint venture, a participant in the joint venture, other than a participant who contributes to the capital of the joint venture, but who is not otherwise concerned with the management and day-to-day operations of the joint venture;

- (c) in the case of an incorporated body other than a body referred to in paragraph (a) or (b)—
 - (i) a person who holds office as chairman, president, treasurer, secretary or any other similar office of the unincorporated body;
 - (ii) where there is no official of the body, as referred to in sub-section (1), a member of any committee which has management of the affairs of the unincorporated body; or
 - (iii) where there is no official referred to in subparagraph (i), or committee referred to in sub-paragraph (ii), a member of the unincorporated body.

(2) Where any liability or obligation is imposed by or under this Act or its regulations on an unincorporated body, the unincorporated body and every official of the unincorporated body at the time the liability or obligation is imposed, are jointly and severally liable and responsible to satisfy the liability or obligation.

(3) Notwithstanding sub-section (2), an official of an unincorporated body is not liable under that subsection unless—

- (a) a certificate for the amount of the body's liability referred to in that subsection has been registered in the High Court under this Act, and execution for that amount has been returned unsatisfied in whole or in part;

- (b) the body has commenced liquidation or dissolution proceedings or has been dissolved, and a claim for the amount of the body's liability referred to in sub-section (1) has been proved; or
- (c) the body has made an assignment, or a receiving order has been made against it under the Bankruptcy Act, and a claim for the amount of the body's liability referred to in sub-section (1) has been proved.

(4) A person who ceases to be an official of an unincorporated body shall be deemed, for the purposes of this Act, not to cease being an official of the body, until the Comptroller receives notification in writing, of the cessation.

(5) Where a document is served on an unincorporated body under this Act or its regulations, the document is deemed to have also been served on the officials of the body.

255.—(1) For the purposes of this Act, where an individual dies— Executors and administrators.

- (a) the individual's estate shall be deemed to be the same person as the individual and not to be a trust;
- (b) where liability or obligation is imposed by this Act on the individual or his estate, the executors or administrators are, subject to this section, responsible to satisfy the obligation; and
- (c) the estate and the executors or administrators, are jointly and severally liable for the payment of all

amounts that are payable by the estate under this Act, except that the executors or administrators are liable for the payment of amounts that became payable before the individual died, only to the extent of the assets of the estate, after satisfying the claims of creditors whose claims rank in priority to the claim of the State.

(2) When an individual dies, the Minister may, where it is considered appropriate to do so, waive in writing, the requirement, that the individual's executor or administrators pay the duty owed.

Trustees in
bankruptcy.

256. For the purposes of this Act, where a person is adjudged a bankrupt—

- (a) the person's estate shall be deemed not to be an estate or trust;
- (b) property held by the person immediately before he was adjudged a bankrupt shall be deemed not to pass to or be vested in the trustee in bankruptcy, upon the receiving order being made or the assignment in bankruptcy being filed, but to remain vested in the person;
- (c) the property held by the trustee in bankruptcy for the person on the day the person is discharged from bankruptcy, shall be deemed not to pass to the person on the order of discharge being granted, but to have been held by and vested in the person continuously, since the day it was acquired by the person or the trustee;

- (d) where any liability or obligation is imposed by this Act on the person in relation to assets to which the bankruptcy relates, the trustee in bankruptcy is, subject to this section, responsible to satisfy the liability or obligations;
- (e) subject to paragraph (f) and (g), the trustee in bankruptcy, and not the person, is liable for the payment of all amounts that become payable by the person under this Act, before the person is discharged from bankruptcy;
- (f) the trustee is not liable for the payment of any amount that a receiver is liable to pay, or any amount that relates to activities that the person engages in, on or after the day the person is adjudged a bankrupt and to which the bankruptcy does not relate; and
- (g) the trustee is liable for the payment of amounts which became payable by the person before the person became a bankrupt only to the extent that the person's property in the possession of the trustee, is available to satisfy the liability.

257.—(1) For the purposes of this section—

Receivers.

“asset” includes any property; and

“receiver” includes—

- (a) a person who is appointed to manage or operate an asset of another person under the authority of a court order, an Act or a bond, debenture or other debt security;

- (b) a liquidator appointed to liquidate the assets or wind up the affairs of a corporation; or
- (c) a committee, guardian or curator who has authority to manage and care for the affairs and other assets of an individual who is incapable of managing his own affairs and assets.

(2) For the purposes of this Act, where a receiver is vested with authority to manage, operate, liquidate, or wind up assets of a person, or to manage and care for the affairs and other assets of a person—

- (a) the receiver shall be deemed to be an agent of the person, in the course of furtherance of any of the person's activities over which the receiver has authority;
- (b) any act performed by the receiver in relation to the person's assets over which the receiver has authority, shall be deemed to have been performed by the receiver as agent on behalf of the person;
- (c) the receiver shall be deemed not to be a trustee of the estate of the person or any part thereof;
- (d) where the assets of a person over which the receiver has authority are not all of the person's assets, through the period during which the receiver acts as receiver of the person, the assets over which the receiver

has authority, shall be deemed to be separate from the other assets of the person, as if they were assets of a separate person;

- (e) where liability or obligation is imposed by the Act on the person in relation to assets over which the receiver has authority, the receiver is, subject to this section, responsible to satisfy the obligation;
- (f) subject to paragraph (g), the person and the receiver are jointly and severally liable for the payment of all amounts that became payable by the person, under this Act, before the receiver was appointed, except that the receiver is liable for the payment of those amounts, only to the extent of the person's assets under the control and management of the receiver after satisfying the claims of creditors whose claims rank in priority to the claim of the State and after paying any amounts that the receiver is required to pay to a trustee in bankruptcy of the person;
- (g) the receiver, and not the person, is liable for the payment of all amounts that become payable by the person under this Act, during the period in which the receiver acts as receiver of the person, to the extent that the amounts can reasonably be considered to relate to the person's assets over which the receiver has authority.

Receipts.

258. The Comptroller shall provide an official receipt, in written or electronic form, for any money collected by him.

Duties and drawback to be proportionate to quantity or value.

259. The duties, rates, charges and drawback imposed and allowed according to—

- (a) any specified quantity or and specified value of goods; or
- (b) any particular description of container or covering in which goods are imported or exported,

shall be deemed to apply in the same proportion, to any greater or lesser quantity or value or any other description of container or covering.

260. The duties, rates, charges and drawback imposed and allowed under this Act or any other customs enactment—

- (a) shall be paid and received according to the weights and measures established by the National Metrology Act; and
- (b) may be paid in any currency being legal tender in Grenada.

261. The Auctioneers Act shall not apply to sales under any customs enactment, when conducted by a customs officer authorised under this Act. Sales under customs enactment.

262. No action, suit or other proceedings shall be brought Actions against officer.

or instituted personally against any officer in respect of any act performed by him, in pursuance of any power granted to or duty imposed on him, under this Act or any other customs enactment.

263. The provisions of this Act and any other customs enactment so far as such provisions are applicable, and subject to any regulations made under this Act regarding goods in transit, shall be deemed to apply to goods declared in transit to a destination beyond Grenada. Goods in transit.

264. The Minister may make regulations for the further, better or more convenient implementation of any of the provisions or purposes of any customs enactment. General power to make regulations.

265. The Comptroller shall endeavour to ensure that relevant information concerning the requirement, obligations and administration of this Act, is available to the public. Availability of information.

266. All ports, warehouses, airports, wharves and boarding stations, approved as such at the commencement of this Act, shall continue to be ports, warehouses, airports, wharves and boarding stations, and all duly appointed wharves and airports shall be deemed to be approved places of loading and unloading until the appointment thereof is revoked or varied under this Act. Existing ports, warehouse, etc, to continue.

267.—(1) The Customs Ordinance No. 35 of 1960 is hereby repealed. Repeals and savings.

(2) With respect to the Customs Ordinance and any other enactment now repealed, the following provisions shall apply—

- (a) all offices, appointments, proclamation, rules, regulations, by-laws, orders, warrants, seals, certificates, books, records, instruments, documents, proceedings and generally all acts of authority that originated under this said Act or any of the said enactments, or any law thereby repealed, and are subsisting or in force on the commencement of this Act, shall inure for the purposes of this Act, as fully and effectually as if they had originated under this Act, and accordingly shall, where necessary, be deemed to have so originated;
- (b) where under any repealed law any act is authorised to be performed, such act may be performed under this Act, unless the act is inconsistent with the express provisions of this Act; and
- (c) where in any enactment, or in any proclamation, rule, regulation, by-law, order, form or document made under any enactment or to the Customs Act, or to any customs enactment amending same, the reference shall be read and shall operate as if it had been made to this Act.

SCHEDULE I

Section 44

**GOODS PROHIBITED OR RESTRICTED FROM WAREHOUSING ON
IMPORTATION**

Animals, living
Arms, ammunition and explosives
Asphalt, all kinds including pitch and tar
Bottles, empty in bags
Bricks and tiles
Cattle and other animal foods (other than in tins packed in cases)
Cement and cement products
Cheese
Film, cinematograph
Fireworks
Fish (other than in tins packed in cases)
Fruits and nuts (other than in tins packed in cases)
Grains, flour, pulse and preparation thereof (other than in tins packed in cases)
Hay and chaff
Manure
Matches
Meats (other than in tins packed in cases)
Molasses
Nuts and kernels, other than food
Oil –
 edible (other than in small packages for retail sale) fuel (other than at installations
 approved for the purpose) other than including essential medicinal and perfumed oils
Salt
Seeds for expressing oil therefrom
Starch
Stones and slates
Sugar
Vegetables (other than in tins packed in cases)
Wood and timber –
 lumber
 shingles
 shooks, staves and headings

Any goods which in the opinion of the Comptroller are likely to cause damage to other goods stored in the same warehouse or which may be considered hazardous to warehouse users.

SCHEDULE II

Section 78

VALUATION OF GOODS**1.—(1) In this Schedule—**

“customs value”, in relation to imported goods, means the value of goods for the purpose of levying *ad valorem* duties of customs on imported goods;

“goods of the same class or kind” means goods which fall within a group or range of goods produced by a particular industry or industry sector, and includes identical or similar goods;

“identical goods” means, goods produced in the same country and which are the same in all respects including physical characteristics, quality and reputation, but does not include goods which incorporate or reflect engineering, development, artwork, design work, and plans and sketches for which no adjustment has been made under subsection 8(1)(b)(iv), because such processing were undertaken in Grenada;

“person” means a natural or legal person;

“produced” includes grown, manufactured or mined.

(2) For the purposes of the definition of “identical goods”, minor differences in appearance shall not preclude goods otherwise conforming to the definition from being regarded as identical.

(3) In determining whether goods are similar, the factors to be taken into consideration include—

- (a) the quality and reputation of the goods; and
- (b) the existence of a trademark in respect of the goods.

(4) For the purpose of this Schedule—

- (a) a person is deemed to be related to another person only if—
 - (i) both persons are officers or directors of the same business;

-
- (ii) both persons are legally recognized partners in business;
 - (iii) both persons are directly or indirectly controlled by a third person;
 - (iv) directly or indirectly, both persons jointly control a third person;
 - (v) both persons are members of the same family;
 - (vi) one person is the employer of the other person;
 - (vii) one person directly or indirectly owns, controls or holds five per cent or more of the outstanding voting stocks or shares of the other person; or
 - (viii) one person directly or indirectly controls the other person;
- (b) one person (person A), is deemed to control another person (person B), when person A is legally or operationally in a position to exercise restraint or direction over person B;
 - (c) two persons who are associated in business with one another, whereby one is the sole agent, sole distributor or sole concessionaire, however described, of the other person, are deemed to be related, only if such persons fall within a criterion specified in paragraph (4)(a); and
 - (d) an event is deemed to occur about the same time as another event if one event occurs—
 - (i) on the same day as the other event; or
 - (ii) within forty-five days immediately before or after, the day on which the other event occurs.

2.—(1) Subject to this section, the customs value of imported goods shall be determined under section 3, whenever the conditions prescribed in that section are fulfilled.

(2) Where the customs value of imported goods cannot be determined under section 3, such value shall be determined by proceeding sequentially through sections 4

to 7, in ascending order, to the first section under which it can be determined, but the order of application of sections 6 and 7 shall be reversed, if the importer makes a request for such a change and the comptroller agrees to the request.

(3) Except as provided for in subsection (2), it is only when the customs value of imported goods cannot be determined under a particular section that the section next following in the sequence established by that subsection, can be applied.

(4) Where the customs value of imported goods cannot be determined under sections 3 to 7, inclusive, such customs value shall be—

- (a) determined using reasonable means consistent with the principles and general provisions of this Schedule;
- (b) to the greatest extent possible, be based on previously determined customs values; and
- (c) determined using the methods of valuation laid down in sections 3 to 7, inclusive, using, where necessary, reasonable flexibility in their application.

(5) The customs value of imported goods shall not be determined under subsection (4) on the basis of—

- (a) the selling price in Grenada of goods produced in Grenada;
- (b) a system which provides for the acceptance for customs purposes of the higher of two alternative values;
- (c) the price of goods on the domestic market of the country of exportation;
- (d) the cost of production, other than computed values which have been determined for identical or similar goods in accordance with section 7;
- (e) the price of goods for export to a country other than Grenada;
- (f) minimum customs value; or
- (g) arbitrary or fictitious values.

3.—(1) The customs value of imported goods determined under this section is the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to Grenada, adjusted in accordance with section 8, and in appropriate cases section 9, if—

- (a) there are no restrictions respecting the disposition or use of the goods by the buyer, other than restrictions which—
 - (i) are imposed or required by law, by the public authorities in Grenada;
 - (ii) limit the geographical area in which the goods may be resold; or
 - (iii) do not substantially affect the value of the goods;
- (b) the sale or price of the imported goods, is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;
- (c) no part of the proceeds of any subsequent resale, disposal or use of the imported goods by the buyer, is likely to accrue, directly or indirectly, to the seller of such goods, unless an appropriate adjustment can be made in accordance with section 8; and
- (d) the buyer and seller of the imported goods are not related, or, where such buyer and seller are related, the transaction value is acceptable for customs purposes under section (2).

(2) For the purposes of subsection (1)—

- (a) where a buyer and a seller of the imported goods are related, that relationship shall not in itself be a ground for regarding the transaction value of goods as unacceptable, in determining whether the transaction value is acceptable;
- (b) in a sale between related persons, the transaction value shall be accepted, and the goods valued in accordance with that subsection, whenever the importer demonstrates that such value closely approximates to one of the following, occurring at or about the time—
 - (i) the transaction value in sales, between buyers and sellers who are not related in any particular case, of identical or similar goods for export to Grenada;

- (ii) the customs value of identical or similar goods, as determined under section 6; and
 - (iii) the customs value of identical or similar goods, as determined under section 7;
 - (c) in applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in section 8 and costs incurred by the seller, in sales in which the seller and the buyer are not related, which are not incurred by the seller, in sales in which the seller and the buyer are related; and
 - (d) the tests set out in paragraph (2), shall be used at the initiative of the importer and only for comparison purposes, and substitute values shall not be established under that paragraph.
- (3) For the purposes of section (2)(a)–
- (a) where necessary, the circumstances surrounding the sale shall be examined, and the transaction value shall be accepted if the relationship between the seller and the buyer of the imported goods did not influence the price; and
 - (b) where, having regard to the information provided by the importer or otherwise, the Comptroller has grounds for considering that the relationship between the seller and buyer of the imported goods influenced the price, he shall communicate such grounds to the importer who shall be given a reasonable opportunity to respond.
- (4) For the purposes of this section–
- (a) the price actually paid or payable, is the total payment made or to be made by the buyer to, or for the benefit of the seller for the imported goods, but such payment, whether made directly or indirectly, need not necessarily take the form of a transfer of money;
 - (b) the total payment referred to in paragraph (a), includes all payments made or to be made, as a condition of sale of the imported goods by the buyer to the seller or a third party, to satisfy–
 - (i) an obligation of the seller;

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- (ii) any settlement by the buyer, whether wholly or in part; or
 - (iii) a debt owed by the seller;
 - (c) an activity, including a marketing activity, undertaken by the buyer on his own account, other than those for which an adjustment is provided by or under section 8, is not considered to be an indirect repayment to the seller, notwithstanding that such activity—
 - (i) is likely to be regarded as a benefit to the seller; or
 - (ii) has been undertaken by agreement with the seller; and
 - (d) the cost of any activity referred to in paragraph (c), shall not be added to the price actually paid or payable, in determining the customs value of imported goods.
- (5) The customs value of imported goods does not include the following charges or costs—
- (a) charges for construction, erection, assembly, maintenance or technical assistance undertaken after importation of imported goods such as industrial plant, machinery or equipment;
 - (b) customs duties and other taxes payable in Grenada, by reason of the importation or sale of the goods; or
 - (c) the cost of transport after importation,
- if such charges or costs are distinguished from the price actually paid or payable for the imported goods.
- (6) Where goods which are the subject of a sale are entered for home use within Grenada, the entry of such goods shall be regarded as adequate indication that such goods were sold for export to Grenada.
- (7) Where successive sales of goods have taken place before evaluation—
- (a) the indication in subsection (6) shall apply; and
 - (b) each price resulting from each sale may be used as a basis for valuation.

4.—(1) For the purposes of this section—

- (a) the customs value of imported goods determined under this section, is the transaction value of identical goods sold for export to Grenada, and exported at or about the same time as the goods being valued;
- (b) subject to paragraph (c), the transaction value of identical goods in a sale at the same commercial level, and in substantially the same quantity as the goods being valued, shall be used to determine the customs value of imported goods; and
- (c) subject to subsection (2), where the transaction value referred to in paragraph (b) is not available, the transaction value of identical goods sold at a different commercial level or in different quantities, adjusted to take account of differences attributable to commercial level or to quantity, shall be used to determine the customs value of the imported goods.

(2) Where by reason of different commercial levels or different quantities, an adjustment is required to be made to the transaction value in section (1)(c), such adjustment must be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in value.

(3) Where the cost and charges referred to in section 8(e) are included in the transaction value, an adjustment shall be made to take account of significant differences in such cost and charges between the imported goods, and the relevant identical goods, arising from differences in distances and modes of transport.

(4) In applying this section—

- (a) where more than one transaction value of identical goods is available, the lowest transaction value shall be used to determine the customs value of the imported goods;
- (b) a transaction value for goods produced by a different person, shall be taken into account only when no transaction value is available under subsection (1), for identical goods produced by the same person as the goods being valued; and
- (c) where by reason of different commercial levels or different quantities, an adjustment is required to be made to the transaction value, such

adjustment shall be made only on the basis of demonstrated evidence, which clearly establishes the reasonableness and accuracy of the adjustment.

(5) For the purposes of this section, the “transaction value of identical imported goods” means, a customs value previously determined under section 3, adjusted as specified in subsections (1)(b) and (2).

5.—(1) For the purposes of this section—

- (a) the customs value of imported goods determined under this section, is the transaction value of similar goods sold for export to Grenada and exported at or about the same time as the goods being valued;
- (b) subject to paragraph (c), the transaction value of similar goods in a sale at the same commercial level, and in substantially the same quantity as the goods being valued, shall be used to determine the customs value of the imported goods; and
- (c) subject to subsection (2), where the transaction value referred to in paragraph (b) is not available, the transaction value of similar goods sold at a different commercial level or in different quantities, adjusted to take account of differences attributable to commercial level or to quantity, shall be used to determine the customs value of the imported goods.

(2) Where by reason of different commercial levels or different quantities, an adjustment is required to be made to the transaction value in subsection (1), such adjustment must be made on the basis of demonstrated evidence, which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in value.

(3) Where the costs and charges referred to in section 8(1)(e) are included in the transaction value, an adjustment shall be made to take account of any significant differences in the costs and charges between the imported goods and the similar goods in question arising from differences in distances and modes of transport.

(4) In applying this section—

- (a) where more than one transaction value of similar goods is available, the lowest transaction value shall be used to determine the customs value of the imported goods;

- (b) a transaction value for goods produced by a different person, shall be taken into account only when no transaction value is available under subsection (1), for similar goods produced by the same person as the goods being valued; and
- (c) where by reason of different commercial levels or different quantities, an adjustment is required to be made to the transaction value, such adjustment shall be made only on the basis of demonstrated evidence, which clearly establishes the reasonableness and accuracy of the adjustment.

(5) For the purposes of this section, the “transaction value of similar imported goods” means, a customs value previously determined under section 3, adjusted as specified in subsections (1)(b) and (2).

6.—(1) Subject to subsections (2) and (3), the customs value of imported goods determined under this section shall be based on—

- (a) in the case of imported goods or identical or similar imported goods sold in Grenada in the condition as imported, the unit price at which such goods are sold in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons who are not related to the sellers of the goods;
- (b) in the case of imported goods or identical or similar imported goods not sold at or about the time of importation of the goods being valued, the unit price at which such goods are sold in Grenada in the condition as imported, at the earliest date after the importation of goods being valued, but before the expiration of ninety days after the importation; and
- (c) in the case of imported goods or identical or similar imported goods not sold in Grenada in the condition as imported, if the Comptroller so decides, the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in Grenada, who are not related to the sellers of such goods, but due allowance shall be made for the value added.

(2) The unit price at which the imported goods or identical or similar imported goods are sold, shall be subject to deductions for the following—

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- (a) the commissions usually paid or agreed to be paid, or the additions usually made for profit and general expenses, including the direct and indirect costs of marketing the relevant goods, in connection with sales in Grenada or imported goods of the same class or kind;
 - (b) the usual costs, of transport and insurance and associated costs incurred within Grenada;
 - (c) the customs duties and other taxes payable in Grenada by reason of the importation or sale of the goods; and
 - (d) in the case of goods to which subsection (1)(c) applies, the value added by reason of any processing of such goods.

(3) For the purpose of subsections (1) and (2)–

- (a) the deductions made for value added by reason of processing, shall be based on objective and quantifiable data relating to the cost of the work or services; and
- (b) accepted industry formulas, recipes, methods of construction and other industry practices, shall form the basis of the calculations respecting the determination of customs value of imported goods.

(4) Subject to subsection (5), the unit price at which imported goods or identical or similar imported goods are sold in the greatest aggregate quantity, is the price at which the greatest number of units sold in sales, to persons who are not related to the sellers of the goods at the first commercial level after importation at which such sales take place.

(5) A sale in Grenada to a person who supplies any service specified in section 8(1)(b)–

- (a) directly or indirectly;
- (b) free of charge; or
- (c) at reduced cost,

for use in connection with the production and sale of export of the imported goods, shall not be taken into account in establishing the unit price referred to in subsection (4).

(6) For the purposes of subsection (1)(a)–

- (a) the “profit and general expenses” shall be taken as a whole, but–
 - (i) subject to sub-paragraph (ii), the figure for the purposes of this deduction shall be determined on the basis of information supplied by or on behalf of the importer; and
 - (ii) where the importer’s figures are inconsistent with the figures obtaining the sales of imported goods of the same class or kind, the figure referred to in sub-paragraph (i), may be based upon relevant information, other than information supplied by or on behalf of the importer;
- (b) in determining the commissions or the additions usually made for profit and general expenses–
 - (i) the question whether certain goods are of the same class or kind as other goods shall be determined on a case by case basis by reference to the circumstances involved; and
 - (ii) an examination must be conducted in respect of the sales for which the necessary information can be provided, respecting the narrowest group or range of imported goods of the same class or kind as the goods being valued.

(7) For the purposes of subsection (1)(b)–

“earliest date”, in relation to imported goods means, the date by which sales of the imported goods or of identical or similar imported goods, are made in sufficient quantity to establish the unit price;

“goods of the same class or kind”, in relation to imported goods, includes goods imported from the same country as the goods being valued, as well as goods imported from other countries.

7.—(1) The customs value of imported goods determined under this section shall be based on a computed value, which shall consist of the aggregate of–

- (a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;
- (b) an amount for profit and general expenses equal to the amount unusually reflected in sales of goods of the same class or kind as the goods being valued, which are made by producers in the country or exportation for export to Grenada; and

(c) the cost and charges referred to in section 8(1)(e).

(2) The cost or value of materials and fabrication referred to in subsection (1)(a) includes—

(a) the cost of supplying the services specified in section 8(1)(a)(ii) and (iii); and

(b) subject to subsection (3), the value, duly apportioned, of any element specified in section 8(1)(b), which has been supplied directly or indirectly by the buyer, for use in connection with the production of the imported goods.

(3) The cost or value of the services specified in paragraph 8(1)(b)(iv), which are undertaken in Grenada—

(a) shall be included only to the extent that such services are charged to the producer; and

(b) shall not be counted more than once in determining the computed value.

(4) For the purpose of subsection (1)—

(a) the cost or value referred to in subsection (1)(a) shall be—

(i) determined on the basis of information relating to the production of the goods being valued, or supplied by or on behalf of the producer; and

(ii) based upon the commercial accounts of the producer, if such accounts are consistent with generally accepted accounting principle applied in the country where the goods are produced;

(b) subject to paragraph (c), the amount for profit and general expenses referred to in subsection (1)(a), shall be taken as a whole and shall be determined on the basis of information supplied by or on behalf of the producer, unless his figures are inconsistent with those usually reflected in sales of goods of the same class or kind as the goods being valued, which are made by producers in the country of exportation for export to Grenada;

- (c) where the producer's own figures for profit and general expenses are not consistent with the figures usually reflected in sales of the goods of the same class or kind referred to in paragraph (b), the amount for profit and general expenses may be based upon relevant information, other than that supplied by or on behalf of the producer of the goods; and
- (d) the question whether goods are "of the same class or kind" as other goods, shall be determined on a case by case basis, with reference to the circumstances involved, but an examination must be conducted in respect of sales for export to Grenada, of the narrowest group or range of goods of the same class or kind as the goods being valued, for which the necessary information can be provided.

(5) For the purpose of this section—

"goods of the same class or kind" means, goods imported from the same country as the goods being valued;

"general expenses" includes the direct and indirect cost of producing and selling the goods for export, which are not included under subsection (10) (a).

8.—(1) In determining the customs value under section 3, there shall be added to the price actually paid or payable for the imported goods—

- (a) the following costs, to the extent that such costs are incurred by the buyer, but are not included in the price actually paid or payable for the goods—
 - (i) commission and brokerage, except buying commissions;
 - (ii) the cost of containers which are treated as containers for customs purposes respecting the relevant goods; or
 - (iii) the cost of packing, whether for labour or materials;
- (b) the value, apportioned as appropriate, of the following goods and services, if such goods and services are supplied directly and indirectly by the buyer free of charge or at reduced cost, for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable—
 - (i) materials components, parts and similar items incorporated in the imported goods;

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- (ii) tools, dies, moulds and similar items used in the production of the imported goods;
 - (iii) materials consumed in the production of the imported goods; or
 - (iv) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in Grenada, and necessary for the production of the imported goods;
- (c) royalties and licence fees, which, among other things, may include payments in respect of patents, trademarks and copyrights related to the goods being valued, which the buyer must pay, directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;
- (d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods which accrues, directly or indirectly, to the seller of such goods; and
- (e) the aggregate of the following costs and charges—
- (i) the cost of transport of the imported goods to the port or place of importation;
 - (ii) loading and handling charges associated with the transport of imported goods to the port or place of importation; and
 - (iii) the cost of insurance.

(2) Except as provided in this section, additions shall not be made to the price actually paid or payable in determining the customs value.

(3) Additions to the price actually paid or payable in respect of imported goods, shall be made under this section, only on the basis of objective and quantifiable data, but a transaction value shall not be determined under the provisions of section 3, if such objective and quantifiable data do not exist.

(4) Notwithstanding subsection (1)(c)—

- (a) charges for the right to reproduce the imported goods in Grenada, shall not be added to the price actually paid or payable for the imported goods in determining the customs value; and
- (b) payments made by the buyer for the right to distribute or resell the imported goods, shall not be added to the price actually paid or payable for the imported goods, if the making of such payments is not a condition of the sale for export to Grenada of the goods.

(5) For the purpose of this section, “buying commissions” means, fees paid by an importer to his agent for the service of representing him abroad in the purchase of the goods being valued.

9.—(1) Charges for interest under a financing arrangement entered into by the buyer and related to the purchase of imported goods, shall not be included in the customs value determined under section 3—

- (a) if the charges are distinguished from the price actually paid or payable for the imported goods;
- (b) if the financing arrangement has been made in writing; or
- (c) where required by the Comptroller, if the buyer can demonstrate that—
 - (i) such goods are actually sold at the price declared as the price actually paid or payable; and
 - (ii) the claimed rate of interest does not exceed the level for such transactions prevailing in the country where the finance was provided.

(2) Subsection (1) applies—

- (a) notwithstanding that the finance is provided by the seller, a bank or another person, to the determination of the customs value under section 3; and
- (b) *mutatis mutandis* to the determination of the customs value under a method other than the transaction value.

SCHEDULE III

Section 96 (1), (2)

GOODS PROHIBITED AND RESTRICTED FROM IMPORT AND EXPORT**PART I****PROHIBITED IMPORTS**

1. All gold and silver articles of foreign manufacture bearing imitation of British assay marks, and all gold and silver articles bearing marks purporting to be such marks, but which are below the standard indicated by the marks.

2. Coin of legal tender in Grenada or any coin purporting to be such, not being of the established standard in weight and fineness.

3. Articles of food intended for human consumption, declared by the Ministry with responsibility for public health, to be unfit for such purpose.

4. Indecent or obscene prints, paintings, photographs, books, cards, lithographic or other engraving, or any other indecent or obscene articles.

5. Infected cattle, sheep or other animals, or their carcasses, hides, skins, horns, hoofs or any other parts, the importation of which may be prohibited by the Ministry responsible for agriculture, in order to prevent the introduction or spread of any communicable disease.

6. Any pistol or other apparatus in the form of a stylographic pen or pencil capable of firing any kind of shot or cartridge, and any cartridge for such a pistol or apparatus containing tear gas.

7. Any goods bearing the Coat of Arms of Grenada or the Coat of Arms of any other country, or coat of arms so closely resembling such Coats of Arms as to be calculated to deceive, unless the manufacturer of such goods holds the appropriate Government's authority to use such Coat of Arms in connection with his trade, business, calling or profession.

8. Fictitious stamps and any die, plate, instrument or materials capable of making any such stamps.

9. Goods, the importation of which is prohibited by any other re-enactment.

PART II**RESTRICTED IMPORTS**

1. Arms and ammunition, mace and pepper spray except with the written permission of the Commissioner of Police.

2. Cannabis sativa (known as Indian hemp or bhang), cannabis indica, choras, ganja or any preparation or mixture of such goods, except under licence from the Chief Medical Officer.

3. Gunpowder, blasting powder, detonators and high explosives of any description, except imported for the use of the Government with the permission of the Commissioner of Police.

4. Any goods which bear a design, in imitation, of any currency or bank notes or coin in common use in Grenada or elsewhere, except with the permission of the Minister.

5. Kerosene oil and other petroleum products with a below 73 degrees Fahrenheit (Abel close test), except with the permission of the Minister.

6. Except as expressly permitted by the Comptroller in writing, spirits and wine, unless—

- (a) specifically reported as such; and
- (b) stored or imported—
 - (i) in a cask containing five gallon or more;
 - (ii) in a demijohn containing one gallon or more; or
 - (iii) in glass or stone bottles properly packed in cases, each case containing one gallon or more.

7. Tobacco, cigars, cigarillos or cigarettes, unless specifically reported as such and, unless imported by parcels post, in whole and complete packages each containing not less than twenty pounds net weight of tobacco, cigars, cigarillos or cigarettes.

8. Extracts, essences or other concentrations of tobacco or any admixture of such goods, tobacco stalk stripped from the leaf, whether manufactured or not, and tobacco stalks flour, except under such conditions as the Comptroller, with the approval of the Minister, may generally or in any particular case permit.

9. Cigarette making appliances, whether machine or paper, except with the permission of the Minister.

10. Goods, the importation of which is restricted by any other enactment, except in accordance with the enactment.

PART III

PROHIBITED EXPORTS

Goods, the exportation of which is prohibited by any other enactment.

PART IV

RESTRICTED EXPORTS

1. Narcotic drugs and psychotropic substances, except under licence of the Chief Medical Officer.

2. Rare or threatened species of animals or plants, and live or dead wildlife or parts, their products and derivatives, except if such goods are accompanied by the appropriate permits issued by the Director of Forestry.

3. Goods, the exportation of which is regulated by any other enactment, except in accordance with such enactment.

SCHEDULE IV

Section 191

FORFEITURE RULES

NOTICE OF SEIZURE

1. For the purposes of these Rules, a person has the relevant interest in any goods, article or item seized if the person was the owner, or one of the owners, of such goods, article or item at the time of seizure.

2.—(1) Subject to sub-rule (2), the Comptroller shall give notice of—

(a) the seizure of any goods, articles or item seized as liable to forfeiture;
and

(b) the grounds of such seizure,

to any person who to his knowledge, has the relevant interest in the goods.

(2) Notice shall not be required to be given under sub-rule (1) if the seizure was made in the presence of—

- (a) the person whose offence or suspected offence occasioned the seizure;
- (b) the owner or any of the owners of the goods, article or item seized or any servant or agent of such owner; or
- (c) in the case of any goods, article or item seized in a vessel or an aircraft, the master or commander of that vessel or aircraft.

3. A notice under rule 2—

- (a) shall be deemed to have been duly served on the person having the relevant interest in the goods—
 - (i) if delivered personally to the person;
 - (ii) if addressed to the person and forwarded by post to the person at his usual or last known place of abode or business, or, in the case of a body corporate, at its registered or principal office; or
 - (iii) if the person has no address in Grenada, or his address is unknown, by publication of the notice of seizure in the *Gazette*.

NOTICE OF CLAIM

4. Where a person having the relevant interest in any goods claims that the goods seized were not liable to forfeiture, the person shall—

- (a) subject to paragraph (b), within one month of the date of service of the notice of seizure; or
- (b) if no notice of seizure was served on him, within one month of the date of seizure,

give notice of his claim in writing to the Comptroller at any customs office.

5.—(1) Every notice under rule 4—

- (a) shall specify the name and address of the claimant; and
- (b) if a claimant is outside Grenada, shall specify the name and address of a solicitor in Grenada, who is authorised to accept service and act on behalf of the claimant.

CONDEMNATION**6.** Where—

- (a) on the expiration of the relevant period under rule 4 for giving of a notice of claim, no such notice has been given to the Comptroller; or
- (b) a notice of claim is given, that notice does not comply with any requirement of rule 5,

the goods seized are deemed to have been duly condemned as forfeited.

7. Where—

- (a) a notice of claim in respect of any goods seized, are duly given in accordance with rules 4 and 5, the Comptroller shall take proceedings for the condemnation of such goods, article or item by the Court; and
- (b) the court finds that such goods were at the time of the seizure liable to forfeiture, the court shall condemn such goods as forfeited.

8. Where any goods, article or item is, in accordance with rule 6 or 7, deemed to have been condemned or condemned as forfeited, the forfeiture is, without prejudice to any restoration or sale, deemed to have had effect from the date when the liability to forfeiture arose.

9. Proceedings for the condemnation of any goods—

- (a) shall be civil proceedings; and
- (b) may be instituted in the High Court or any Magistrate's Court having jurisdiction in the place—
 - (i) where any offence in connection with such goods was committed;
 - (ii) where any proceedings for an offence in connection with such goods have been instituted;
 - (iii) where the claimant resides or, if the claimant has specified a solicitor under rule 4, where that solicitor has his office; or
 - (iv) where such goods were found, detained or seized or to where such goods were first brought after being found, detained or seized.

10.—(1) In any proceedings for condemnation in respect of any goods, the claimant or his solicitor shall make oath that the goods were, or were to the best of his knowledge and belief, the property of the claimant at the time of the seizure.

(2) The claimant shall, in any proceedings for condemnation before the High Court, give such security for the costs in respect of such proceedings as the Court may determine.

(3) Where the claimant or his solicitor fails to comply with any requirements of this rule, the court shall give judgment for the Comptroller.

11. Any party to condemnation proceedings in a Magistrate's Court who is aggrieved by a judgment of the Magistrate in such proceedings may, within 14 days of the judgment, appeal to the High Court against the judgment of that Magistrate.

12. In any proceedings arising out of the seizure of any goods, the fact, form and manner of the seizure shall be taken to have been set out in the process, unless the contrary is proved.

13. Where any goods are, at the time of seizure, the property of—

- (a) a body corporate;
- (b) two or more partners; or
- (c) any number of persons exceeding five, not being in partnership,

the oath required to be taken by rule 10, and any other thing required by or under this Schedule or the rules of court to be done by, or by any person authorized by the claimant or owner, may be taken or done by the following persons respectively, that is to say—

- (a) where the owner is a body corporate, the secretary or some other duly authorised officer of that body;
- (b) where the owners are in partnership, any of those owners; or
- (c) where the owners are any number of people exceeding five not being in partnership, any two of those persons on behalf of themselves and their co-owners.

SCHEDULE V

Section 205

CUSTOMS APPEAL COMMISSION

1.—(1) The Commission shall comprise not less than four persons appointed by the Minister.

(2) The Minister shall appoint a chairperson and a deputy chairperson of the Commission.

(3) The chairperson or deputy chairperson shall not be a public officer.

(4) The Commission or a panel of the Commission is deemed to be properly constituted notwithstanding that there is—

(a) a vacancy on the Commission; or

(b) a defect, other than a disqualification referred to in section 2, in the appointment of a member.

2.—(1) A person is disqualified from being appointed to the Commission or remaining a member of the Commission, if the person—

(a) is under the age of eighteen years;

(b) is a member of a House of Parliament;

(c) subject to section 1(2), is employed by the Ministry of Finance;

(d) is an undischarged bankrupt, having been so adjusted or otherwise declared under any law in force in Grenada;

(e) is certified to be insane or otherwise adjusted to be of unsound mind under any law in force in Grenada; or

(f) has been convicted of an offence—

(i) involving dishonesty, whether in Grenada or outside; or

(ii) in respect of a contravention of this Act or the Regulations.

3.—(1) Each member other than the chairperson and the deputy chairperson, shall be appointed for a term not exceeding three years.

(2) The chairperson and the deputy chairperson shall be appointed for a term not exceeding five years.

(3) A previous appointment for a person as a member, does not affect the eligibility for the person to be re-appointed as a member.

(4) A notice of appointment of every member shall be published in the *Gazette* without delay, after the appointment.

4.—(1) A member may, at any time, resign from his office by giving written notice to the Minister, and the resignation is effective upon receipt of the notice by the Minister, or by a person authorised by the Minister to receive the written notice of resignation.

(2) The Minister may, by written notice, remove a member from office, if the Minister is satisfied that –

- (a) the member is or becomes disqualified under section 2, from being appointed or from remaining as a member;
- (b) the member has an interest which affects or is likely to affect prejudicially, the exercise and performance of his responsibilities as a member;
- (c) the member is unable or unfit to carry out his responsibilities as a member; or
- (d) it is in the public interest to remove the member from office.

(3) If a member–

- (a) resigns or is removed from office; or
- (b) dies before the expiry of the term for which he is appointed,

the Minister may appoint a new member in accordance with section 1, to replace the member who died, resigned or is removed from office.

(4) An appointment of a new member under subsection (3) may be for–

- (a) the unexpired period of the term of office of the member in whose place the new member is appointed; or

(b) a new term—

- (i) subject to sub-paragraph (ii), of not more than three years; or
- (ii) if the member held the office of chairperson or deputy chairperson, for not more than five years.

(5) If a member is absent from Grenada or is unable to act, the Minister may appoint a person who is eligible to be so appointed to act, during the member's absence or inability to act.

(6) Where a member vacates his office due to resignation, removal from office or death, a notice of the vacancy shall be published in the *Gazette*, without delay, after the vacancy arises.

5.—(1) The Minister shall appoint a public officer to act as secretary to the Commission.

(2) The secretary—

(a) shall provide administrative support to the commission; and

(b) is responsible for—

- (i) giving notice of sittings and hearings of the Commission;
- (ii) recording proceedings of the sittings and hearing of the Commission;
- (iii) preparing the correspondence and reports of the Commission; and
- (iv) carrying out such other functions and duties as the Commission may assign to him.

6.—(1) The members of the Commission are entitled to be paid such remuneration, and to be reimbursed for such reasonable expenses as the Minister may approve, after consultation with the Cabinet.

(2) The Minister may—

(a) reimburse the reasonable expenses of members; or

- (b) establish allowances for the reimbursement of the reasonable expenses of members,

incurred in the course of carrying out their responsibilities as members.

7.—(1) Every hearing of the Commission shall be before a three-member panel comprising—

- (a) the chairperson or deputy chairperson; and
(b) at least two other members.

(2) Every decision of the Commission shall require the concurrence of a majority of its members.

(3) Subject to its rules of procedure, the Commission may act, notwithstanding a vacancy in its membership or the absence of any member.

8. Subject to this Act, the Commission shall determine its own procedure, but the Commission shall give to the parties in any matter before it, full opportunity to present evidence and make representations.

Passed by the House of Representatives this 13th day of November, 2014.

WILLAN THOMPSON
Clerk to the House of Representatives.

Passed by the Senate this 21st day of November, 2014.

WILLAN THOMPSON
Clerk to the Senate.

GRENADA
